Colorado Register

39 CR 21

Volume 39 , No. 21

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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

2016-00562

Department

200 - Department of Revenue

Agency

207 - Division of Gaming - Rules promulgated by Gaming Commission

CCR number

1 CCR 207-1

Rule title

GAMING REGULATIONS

Rulemaking Hearing

Date

12/15/2016

Time

09:30 AM

Location

17301 W. Colfax Ave., Suite 135, Golden, CO 80401

Subjects and issues involved

Amendments to Rule 10 Rules for Poker, to promulgate rules for a new poker variation game, Flushes Gone Wild.

Statutory authority

Sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., 12-47.1-302, C.R.S., 12-47.1-816, C.R.S., and 12-47.1-818, C.R.S.

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BASIS AND PURPOSE FOR RULE 10

The purpose of Rule 10 is to establish playing rules for authorized types of poker and management procedures for conducting poker games in compliance with section 12-47.1-302 (2), C.R.S. The statutory basis for Rule 10 is found in sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., 12-47.1-302, C.R.S., 12-47.1-816, C.R.S., and 12-47.1-818, C.R.S.

RULE 10 RULES FOR POKER

47.1-1017.60 THE PLAY – FLUSHES GONE WILD.

FLUSHES GONE WILD AND FLUSHES GONE WILD PROGRESSIVE ARE COPYRIGHT AND PATENT-PROTECTED POKER VARIATION GAMES, THE RIGHTS TO WHICH ARE OWNED BY BALLY TECHNOLOGIES OF LAS VEGAS, NEVADA, AND WHICH MAY BE TRANSFERRED OR ASSIGNED. FLUSHES GONE WILD MUST BE PLAYED ACCORDING TO THE FOLLOWING RULES:

(1) FLUSHES GONE WILD MAY ONLY BE PLAYED ON TABLES DISPLAYING THE FLUSHES GONE WILD LAYOUT.

(2) FLUSHES GONE WILD FEATURES HEAD-TO-HEAD PLAY AGAINST THE DEALER AND AN OPTIONAL FLUSH RUSH BONUS BET. PLAYERS AND THE DEALER ARE DEALT 5 CARDS AND COMBINE THEM WITH THE COMMUNITY HAND (2 CARDS) TO MAKE THEIR LONGEST FLUSH HAND POSSIBLE. DEUCES (2-VALUED CARDS) ARE ALWAYS WILD AND CAN BE USED TO COMPLETE THE FLUSH HAND. IF THE PLAYER AND DEALER HAVE FLUSHES OF IDENTICAL LENGTH, THE RANK OF THE HIGHEST KICKER CARD IN THE FLUSH DETERMINES THE WINNER. FOR EXAMPLE, AN ACE,7,3 OF CLUBS WILL LOSE TO AN ACE,10,7 OF HEARTS. AN ACE WILL BE THE HIGHEST CARD IN A FLUSH HAND.

(3) TO BEGIN THE GAME, PLAYERS MAKE EQUAL BETS ON THE ANTE AND BLIND BETTING SPOTS. PLAYERS MAY ALSO MAKE THE OPTIONAL FLUSH RUSH BONUS BET AT THIS TIME. SEE PAY TABLE BELOW FOR ODDS.

(4) IMMEDIATELY PRIOR TO THE START OF PLAY AND AFTER EACH ROUND OF PLAY HAS BEEN COMPLETED, THE DEALER SHALL SHUFFLE THE CARDS. FOLLOWING THE SHUFFLE AND CUT, THE DEALER WILL DEAL 5 CARDS FACE DOWNWARD, AND PLACE THEM IN THE CENTER OF THE TABLE. THESE 5 CARDS WILL BE USED FOR THE COMMUNITY HAND.

(5) THE DEALER, WORKING CLOCKWISE FROM HIS/HER LEFT TO RIGHT, THEN GIVES EACH PLAYER AND HIM/HERSELF A PACKET OF FIVE CARDS FACE DOWNWARD. THE DEALER WILL THEN DISCARD THE REMAINDER OF THE DECK.

(6) THE DEALER WILL THEN SPREAD THE 5 COMMUNITY CARDS. HE OR SHE WILL THEN REMOVE CARDS 1, 2 AND 5 AS THEY ARE COUNTED FROM THE DEALER'S LEFT. THESE CARDS WILL BE DISCARDED. THE CARDS THAT REMAIN WILL BE USED AS THE COMMUNITY CARDS.

(A) ALTERNATIVELY TO THE DEALING PROCEDURES OUTLINED ABOVE IN (4) THROUGH (6), THE RETAIL LICENSEE MAY ELECT TO DEAL EACH PLAYER AND HIM/HERSELF FIVE CARDS, FACE DOWNWARD AND ONE AT A TIME IN ROTATION. AFTER THE PLAYERS AND THE DEALER HAVE RECEIVED THEIR FIVE CARDS, THE DEALER WILL DEAL THE NEXT TWO CARDS, FACE DOWNWARD, AND PLACE THEM IN THE CENTER OF THE TABLE. THESE TWO CARDS WILL BE USED FOR THE COMMUNITY HAND.

(7) EACH PLAYER WILL THEN LOOK AT HIS/HER CARDS AND MAKE A CHOICE:

(A) FOLD HIS/HER CARDS AND LOSE HIS/HER ANTE AND BLIND BETS. IF THE PLAYER WHO HAS CHOSEN TO FOLD MADE A FLUSH RUSH BONUS BET, THE DEALER WILL PICK UP THE PLAYER'S ANTE AND BLIND BETS AND WILL TUCK THE PLAYER'S CARDS FACE DOWN UNDER THE FLUSH RUSH BONUS BET.

(B) REMAIN IN THE GAME BY MAKING A PLAY BET OF 2 TIMES HIS/HER ANTE.

(8) THE DEALER WILL THEN REVEAL HIS/HER HAND AND WILL THEN TURN OVER BOTH COMMUNITY CARDS.

(9) The dealer, working counter-clockwise from his/her right to left, will compare his/her hand with the hand of each player that remained in the game.

(10) If the player's hand beats the dealer's hand, the player is paid 1 to 1 on his/her Ante and Play bets. His/her Blind bet is resolved based on the margin of victory over the dealer per the pay table below:

Win by	Pays
5 cards or more	200 to 1
4 cards	25 to 1
3 cards	5 to 1
2 cards	3 to 1
0 or 1 card	Push

(11) If the player's hand loses to the dealer's hand, his/her Ante, Play and Blind bets all lose.

(12) If the player's hand ties the dealer's hand, his/her Ante, Play and Blind bets all push.

(13) Players will win the Flush Rush bonus bet if they can make a 4-card flush or better, even if they lose to the dealer. See pay table below:

Hand	FGW-01	FGW-02	FGW-03	FGW-04
7-Card Natural Flush	250	200	250	250
7-Card Wild Flush	100	75	100	100
6-Card Natural Flush	50	50	50	60
6-Card Wild Flush	10	10	10	10
5-Card Natural Flush	6	6	5	5
5-Card Wild Flush	3	3	3	4
4-Card Natural Flush	1	1	1	1

If the casino licensee offers the optional Flushes Gone Wild Progressive bet, the following game rules will apply:

(1) Flushes Gone Wild Progressive is an optional progressive bonus bet which may only be played on tables displaying the Flushes Gone Wild progressive layout.

(2) The Flushes Gone Wild Progressive bet considers the best hand possible among the player's 5 cards. Community cards are not considered for this bet. Note: Deuces (2-valued cards) are NOT considered to be wild cards for this bet.

(3) The meter will be reseeded when the 100% award hits. The cost of the reseed has been factored into the casino's mathematical advantage.

(4) To begin each round, a player must make his/her regular game's wager. He or she may also place any bonus wagers and the progressive wager. A player must place the progressive wager on the sensor in front of his/her betting position. The sensor will light up.

(5) The dealer then follows house procedures for dealing the regular game.

(6) All hands are resolved at the same time. The dealer reconciles the standard wager and the Flush Rush bonus wager using the player's 5 card hand and the 2 community cards. To reconcile the progressive wager, only the player's 5 cards will be considered. Deuces will NOT be considered wild for the progressive wager. Folded hands do NOT qualify for payouts

on the progressive wager. Follow the procedures in the next section for reconciling percentage pays from the progressive meter.

(7) Progressive Winners:

(a) The percentage pays are paid from the progressive jackpot shown on the progressive meter.

(b) Other hands are paid from the tray; they do not come off the meter.

(c) In the event more than one progressive meter pay hits during the same round during the same time, house procedures are then followed for paying the prize.

(d) When a player has a progressive winner, the dealer will select the player spot corresponding to the player with the winning progressive hand. The dealer will then press the appropriate hand button on the display. (If the hand button is pressed by accident, pressing it again will turn it off.)

(e) The dealer will then contact a supervisor.

(f) Once the casino verifies the progressive win, house procedures are then followed for paying the prize.

(g) When the dealer reconciles all action, he/she presses "End Game." This resets the system to begin the next hand.

(h) Once the Supervisor or Executive card (depending on the jackpot level) is swiped, the prize is logged into Game Manager. If the progressive pay needs to be backed out at this point, the award will need to be manually backed out using the Game Manager manual adjustment feature.

(i) An incorrect number of cards dealt to any player constitutes a dead hand for that player only. The player receiving the misdealt cards retains the player's ante and any bet. An incorrect number of cards dealt to the dealer constitutes a misdeal to the table and the players may play their hands for the purposes of the progressive jackpot only. If there are no progressive jackpot hands, all hands at the table are dead and the players retain their antes and bets.

(8) Envy Bonus:

(a) A player making the progressive wager also qualifies to win an envy payout, if another player at the table hits a hand associated with an envy payout. If another player at the table hits a hand associated with an envy pay, all other players who made the progressive bet win the envy pay. The player hitting the hand receives the normal prize pay only, but does NOT receive the envy pay.

(b) If a player's hand triggers an envy payout, the dealer will leave the hand face-up on the layout; otherwise, the dealer will lock up the cards. The dealer will then move on to the next player.

(c) The dealer pays any Envy Bonuses at the end of the round. In the event that more than one player is involved in a qualifying envy pay, then all players win multiple envy payouts.

(9) Pay Tables:

	FGWP-01		FGWP-02	
Hand	Pays*	Envy**	Pays*	Envy**
Royal Flush	100%	$1,000	100%	$5,000
Straight Flush	10%	$300	10%	$1,500
Four of a Kind	300 for 1		300 for 1	
Full House	50 for 1		50 for 1	
Flush	40 for 1		40 for 1	
Straight	30 for 1		30 for 1	
Three of a Kind	9 for 1		9 for 1	

*Original Wager is not returned

**Envy and Seed amounts adjust up or down accordingly with changes made to the wager amount.

Notice of Proposed Rulemaking

Tracking number

2016-00545

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-95

Rule title

RULES FOR THE ADMINISTRATION OF THE SCHOOL TURNAROUND LEADERS DEVELOPMENT PROGRAM

Rulemaking Hearing

Date

12/14/2016

Time

01:15 PM

Location

Colorado Department of Education, State Board Room 101

Subjects and issues involved

OLLS recently reviewed the School Turnaround Leaders Development Program rules and determined that the current version did not include additional criteria for applicants who apply for design grants. Under Section 22-13-103(2)(c), C.R.S., state board rules must include criteria for awarding design grants to identified providers Though CDE had been implementing the grant and RFP process to reflect these criteria, the criteria for design grants were not specifically called out in rule. The addition of Section 2.01(2) Additional Criteria for Design Grants addresses the concerns raised by OLLS. This rulemaking is technical in nature and aligned with the implementation of the program.

In addition, the revised rules change the design grant Provider RFP deadline from September 30th to November 30th each year. This revised timeline allows for more time for providers to apply each year.

Statutory authority

22-2-106(1)(a)and(c), 22-2-107(1)(c),and 22-13-103, C.R.S.

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE SCHOOL TURNAROUND LEADERS DEVELOPMENT PROGRAM

1 CCR 301-95

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

Authority: Article IX, Section 1, Colorado Constitution. 22-2-106(1)(a) and (c); 22-2-107(1)(c); 22-7409(1.5); 22-13-103 of the Colorado Revised Statutes (C.R.S.).

1.00 Statement of Basis and Purpose.

The statutory basis for these emergency rules adopted on September 11, 2014 is found in 22-2-106(1)(a) and (c), State Board Duties; 22-2-107(1)(c), State Board Powers; and 22-13-103, C.R.S., School Turnaround Leaders Development Program – Rules.

The School Turnaround Leaders Development Program, 22-13-103, C.R.S., requires the State Board of Education to promulgate rules to implement and administer the program. At a minimum, the rules must include: Criteria for identifying approved providers from among those that respond to the request for proposals pursuant to section 22-13-104, C.R.S.; Timelines for the design grant application and approval process; Criteria for awarding design grants to identified providers to partially offset the design and development costs of creating or expanding high-quality turnaround leadership development programs; Timelines for the school turnaround leader grant application and approval process; The requirements for a school turnaround leader grant application, including but not limited to the goals that the applicant expects to achieve through the grant; and Criteria for selecting school turnaround leader grant recipients.

2.00 Definitions.

2.00(1) Charter School: A charter school authorized by a school district pursuant to part 1 of article 30.5 of title 22 or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22 of the Colorado Revised Statutes.

2.00(2) Department: The Department of Education created and existing pursuant to section 24-1 115, C.R.S.

2.00(3) Institute: The State Charter School Institute established in section 22-30.5-503, C.R.S.

2.00(4) Program: The School Turnaround Leaders Development program created in section 22 13-103.

2.00(5) Provider: A public or private entity that offers a high-quality turnaround leadership development program for Colorado educators.

2.00(6) School District: A school district organized pursuant to article 30 of title 22, C.R.S.

2.00(7) School Turnaround Leader: A principal or teacher leader in a school that is required to adopt a priority improvement plan or turnaround plan pursuant to section 22-11-210,

C.R.S. or a district-level administrator or employee of the State Charter School Institute that coordinates and supports turnaround efforts in schools of the School District or Institute Charter schools that implement priority improvement plans or turnaround plans.

2.00(8) Turnaround plan: The lowest plan type assigned to a school in Colorado based on the percentage of points earned on the School Performance Framework. A Turnaround plan puts a school on the "five-year accountability clock" per the Education Accountability Act of 2009.

2.00(9) Priority Improvement plan: The second-lowest plan type assigned to a school in Colorado based on the percentage of points earned on the School Performance Framework. A Priority Improvement plan puts a school on the "five-year accountability clock" per the Education Accountability Act of 2009.

2.00(10) State Board: The State Board of Education created pursuant to Section 1 of Article IX of the Colorado Constitution.

2.01 Turnaround Leadership Development Programs Request for Proposals

The Department will issue a request for proposals (RFP) from providers who seek to participate in the program. Based on the criteria outlined below, the Department will identify one or more providers to provide turnaround leadership development programs for school districts, the Institute, and charter schools that receive School Turnaround Leader Grants. Providers that respond to the RFP may request a one-time design grant to offset the costs incurred in creating or expanding the provider's Turnaround Leadership Development Programs or may apply to be an identified approved Provider without seeking funding.

2.01(1) Criteria for Identifying Approved Providers and awarding Design Grants.

The Department will develop an RFP, according to the Department's competitive grants and awards RFP process, which consists of: use of a standard grant application and scoring rubric template; and a fair and equitable application review. The following criteria will be considered for identifying providers from among those that respond to the RFP:

2.01(1)(a) Each Provider's experience in developing successful, effective leadership in low-performing schools and School Districts;

2.01(1)(b) The leadership qualities that each Provider's turnaround leadership development program is expected to develop;

2.01(1)(c) A Provider's capacity to implement identified program components that make up a comprehensive leadership development experience; and

2.01(1)(d) The availability of turnaround leadership development programs for School Turnaround Leaders in public schools throughout the state. The grant program shall seek to ensure approved providers are available for leaders in all regions of the state.

2.01(2) Additional Criteria for Design Grants

Applicants for one-time design grants shall also provide persuasive evidence of the need for additional design grant funding, above and beyond operating revenues generated by participant tuition, in order to build the organization's capacity as a School Turnaround

Leaders Development provider. Applicants should also include potential uses of design grant funds, such as, but not limited to:

2.01(2)(a) Additional staff to develop the program

2.01(2)(b) Staff training

2.01(2)(c) Curricula or material development

2.01(3) Timeline for approving providers and design grants. During the 2014-15 school year, the Department will provide funding to identify providers to offset the costs incurred in creating or expanding the provider's Turnaround Leadership Development Programs. Applications will be due to the Department on or before January 1, 2015. Application decision notification will occur on or before February 1, 2015. For the 2015-16 school year and each year thereafter, subject to available appropriations, Turnaround Leadership Development Program Design Grant applications will be due each year by November 30. Application decision notification will occur directly after State Board approval by the December meeting.

2.01(4) Duration of Design Grant Awards. During the first three years that the program receives appropriations, an identified provider may apply as provided by rule for a onetime design grant to offset the costs incurred in creating or expanding the Provider's turnaround leadership development programs.

2.01(5) Reporting Requirements for All Identified Providers. Each identified provider shall track the effectiveness of persons who are engaged in and who complete a turnaround leadership development program and report the effectiveness to the department on or before July 1 of the year following the training. The report must use department rubrics to measure the effectiveness of persons who complete the turnaround leadership development program. Each grant recipient must report on the following:

2.01(5)(a) Number of participants in program;

2.01(5)(b) Schools served; and

2.01(5)(c) Change in principal or aspiring leaders actions/behavior (as data is available).

2.02 School Turnaround Leader Grants. Subject to available appropriations, the State Board shall award School Turnaround Leader Grants to one or more School Districts or Charter Schools or the Institute to use in: identifying and recruiting practicing and aspiring School Turnaround Leaders; subsidizing the costs incurred for School Turnaround Leaders and their staff, if appropriate, to participate in turnaround leadership development programs offered by identified providers (both funded and non-funded); and reimbursing the School Turnaround Leaders for costs they incur in completing turnaround leadership development programs offered by identified providers (both funded and non-funded).

2.02(1) Timeline for School Turnaround Leader Grants. During the 2014-2015 school year, the Department will conduct an initial School Turnaround Leader Grant competition. Applications will be due to the Department on or before February 1, 2015. Application decision notification will occur on or before, April 1, 2015. For the 2015-16 school year and each year thereafter, subject to available appropriations, School Turnaround Leader

Grant applications will be due each year by February 5. Application decision notification will occur directly after State Board approval by the April meeting.

2.02(2) Application Procedures for School Turnaround Leader Grants. The Department will develop an RFP, according to the Department's competitive grants and awards RFP process, which consists of: use of a standard grant application and scoring rubric template; and a fair and equitable application review. The following criteria will be considered for identifying School Turnaround Leader grants:

2.02(2)(a) The goals that the applicant expects to achieve through the grant;

2.02(2)(b) The number of individuals to participate in leadership programs, including: existing leaders, aspiring leaders, district managers or support staff;

2.02(2)(c) A clear plan for leadership development, implementation, and application of skills in the schools and district; and

2.02(2)(d) A plan to evaluate impact of program.

2.02(3) Criteria for Selecting Recipients of School Turnaround Leader Grants. The following criteria will be considered in selecting School Turnaround Leader Grant recipients:

2.02(3)(a) For applying school districts, the concentration of schools of the school district or, for the Institute, the concentration of Institute Charter Schools, that must implement priority improvement or turnaround plans. For applying Charter Schools that are implementing priority improvement or turnaround plans will be prioritized.

2.02(4) Duration of School Turnaround Leader Grant Awards. Each school turnaround leader grant may continue for up to three budget years. The Department shall annually review each grant recipient's use of the grant moneys and may rescind the grant if the Department finds that the grant recipient is not making adequate progress toward achieving the goals identified in the grant application.

2.02(5) Reporting Requirements for School Turnaround Leader Grant. Each grant recipient will annually track the effectiveness of persons who complete a turnaround leadership development program and report the effectiveness to the department on or before July 1 of the year following the training. The report must use department rubrics to measure the effectiveness of persons who complete the turnaround leadership development program. Each grant recipient must report on the following:

2.02(5)(a) Number of people who participated and in which programs;

2.02(5)(b) Schools served;

2.02(5)(c) Impact on student achievement; and

2.02(5)(d) Change in principal or aspiring leaders actions/behavior.

2.02(6) Evaluation of School Turnaround Leader Grant Program. The Department will analyze and summarize the reports received from grant recipients and annually submit to the State Board, the Governor, and the Education Committees of the Senate and the House of Representatives, or any successor committees, a report of the effectiveness of the

School Turnaround Leader Grants awarded pursuant to this section. The Department will also post the annual report on its web site.

Editor's Notes

History

Entire rule emer. rule eff. 09/10/2014; expired 01/08/2015.

Entire rule eff. 01/15/2015.

Entire rule eff. 01/30/2016.

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE SCHOOL TURNAROUND LEADERS DEVELOPMENT PROGRAM

1 CCR 301-95

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2.01 Turnaround Leadership Development Programs Request for Proposals

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2.01(1)(c) A Provider's capacity to implement identified program components that make up a comprehensive leadership development experience; and

2.01(1)(d) The availability of turnaround leadership development programs for School Turnaround Leaders in public schools throughout the state. The grant program shall seek to ensure approved providers are available for leaders in all regions of the state.

2.01(2) Additional Criteria for Design Grants

Applicants for one-time design grants shall also provide persuasive evidence of the need for additional design grant funding, above and beyond operating revenues generated by participant tuition, in order to build the organization's capacity as a School Turnaround

Leaders Development provider. Applicants should also include potential uses of design grant funds, such as, but not limited to:

2.01(2)(a) Additional staff to develop the program

2.01(2)(b) Staff training

2.01(2)(c) Curricula or material development

2.01(32) **Timeline for** approving providers and design grants. During the 2014-15 school year, the Department will provide funding to identify providers to offset the costs incurred in creating or expanding the provider's Turnaround Leadership Development Programs. Applications will be due to the Department on or before January 1, 2015. Application decision notification will occur on or before February 1, 2015. For the 2015-16 school year and each year thereafter, subject to available appropriations, Turnaround Leadership Development Program Design Grant applications will be due each year by NovemberSeptember 30. Application decision notification will occur directly after State Board approval by the December meeting.

2.01(43) Duration of Design Grant Awards. During the first three years that the program receives appropriations, an identified provider may apply as provided by rule for a onetime design grant to offset the costs incurred in creating or expanding the Provider's turnaround leadership development programs.

2.01(54) Reporting Requirements for All Identified Providers. Each identified provider shall track the effectiveness of persons who are engaged in and who complete a turnaround leadership development program and report the effectiveness to the department on or before July 1 of the year following the training. The report must use department rubrics to measure the effectiveness of persons who complete the turnaround leadership development program. Each grant recipient must report on the following:

2.01(54)(a) Number of participants in program;

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2.02 School Turnaround Leader Grants. Subject to available appropriations, the State Board shall award School Turnaround Leader Grants to one or more School Districts or Charter Schools or the Institute to use in: identifying and recruiting practicing and aspiring School Turnaround Leaders; subsidizing the costs incurred for School Turnaround Leaders and their staff, if appropriate, to participate in turnaround leadership development programs offered by identified providers (both funded and non-funded); and reimbursing the School Turnaround Leaders for costs they incur in completing turnaround leadership development programs offered by identified providers (both funded and non-funded).

2.02(1) Timeline for School Turnaround Leader Grants. During the 2014-2015 school year, the Department will conduct an initial School Turnaround Leader Grant competition. Applications will be due to the Department on or before February 1, 2015. Application decision notification will occur on or before, April 1, 2015. For the 2015-16 school year and each year thereafter, subject to available appropriations, School Turnaround Leader

Grant applications will be due each year by February 5. Application decision notification will occur directly after State Board approval by the April meeting.

2.02(2) Application Procedures for School Turnaround Leader Grants. The Department will develop an RFP, according to the Department's competitive grants and awards RFP process, which consists of: use of a standard grant application and scoring rubric template; and a fair and equitable application review. The following criteria will be considered for identifying School Turnaround Leader grants:

2.02(2)(a) The goals that the applicant expects to achieve through the grant;

2.02(2)(b) The number of individuals to participate in leadership programs, including: existing leaders, aspiring leaders, district managers or support staff;

2.02(2)(c) A clear plan for leadership development, implementation, and application of skills in the schools and district; and

2.02(2)(d) A plan to evaluate impact of program.

2.02(3) Criteria for Selecting Recipients of School Turnaround Leader Grants. The following criteria will be considered in selecting School Turnaround Leader Grant recipients:

2.02(3)(a) For applying school districts, the concentration of schools of the school district or, for the Institute, the concentration of Institute Charter Schools, that must implement priority improvement or turnaround plans. For applying Charter Schools that are implementing priority improvement or turnaround plans will be prioritized.

2.02(4) Duration of School Turnaround Leader Grant Awards. Each school turnaround leader grant may continue for up to three budget years. The Department shall annually review each grant recipient's use of the grant moneys and may rescind the grant if the Department finds that the grant recipient is not making adequate progress toward achieving the goals identified in the grant application.

2.02(5) Reporting Requirements for School Turnaround Leader Grant. Each grant recipient will annually track the effectiveness of persons who complete a turnaround leadership development program and report the effectiveness to the department on or before July 1 of the year following the training. The report must use department rubrics to measure the effectiveness of persons who complete the turnaround leadership development program. Each grant recipient must report on the following:

2.02(5)(a) Number of people who participated and in which programs;

2.02(5)(b) Schools served;

2.02(5)(c) Impact on student achievement; and

2.02(5)(d) Change in principal or aspiring leaders actions/behavior.

2.02(6) Evaluation of School Turnaround Leader Grant Program. The Department will analyze and summarize the reports received from grant recipients and annually submit to the State Board, the Governor, and the Education Committees of the Senate and the House of Representatives, or any successor committees, a report of the effectiveness of the

School Turnaround Leader Grants awarded pursuant to this section. The Department will also post the annual report on its web site.

Editor's Notes

History

Entire rule emer. rule eff. 09/10/2014; expired 01/08/2015.

Entire rule eff. 01/15/2015.

Entire rule eff. 01/30/2016.

Notice of Proposed Rulemaking

Tracking number

2016-00564

Department

700 - Department of Regulatory Agencies

Agency

704 - Division of Securities

CCR number

3 CCR 704-1

Rule title

RULES UNDER THE COLORADO SECURITIES ACT

Rulemaking Hearing

Date

12/07/2016

Time

09:00 AM

Location

Civic Center Plaza 1560 Broadway, Denver, CO 80202 Conference Room 1250B

Subjects and issues involved

To replace the requirement of compliance by local government in investment pool trust funds ("LGIPs") with SEC Reg. § 270 2a-7, with these rules. The new rules allow LGIPs to maintain a stable net asset value per share of $1.00 while providing a reliable source of liquidity to pool participants.

Statutory authority

11-51-901, et seq. C.R.S. and 24-75-701, et seq., C.R.S

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DEPARTMENT OF REGULATORY AGENCIES

Division of Securities

RULES UNDER THE COLORADO SECURITIES ACT

3 CCR 704-1

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

CHAPTER 9 LOCAL GOVERNMENT INVESTMENT POOL TRUST FUNDS

519.1 Authority

The regulations provided in this Chapter 9 have been adopted pursuant to the authority granted to the securities commissioner in sections 11-51-901, et seq. C.R.S. and 24-75-701, et seq., C.R.S.

519.2 Definitions

For purposes of this rule, the terms identified below shall have the following meanings:

A. "Board of trustees" shall have the same meaning as that term is defined in 2475701(2), et seq., C.R.S.;

B. "Investment adviser" shall have the same meaning as that term is in section 2475701(5), C.R.S.;

C. "Local government investment pool trust fund" shall mean a trust fund established pursuant to sections 11-51-901, et seq. C.R.S. and 24-75-701, et seq., C.R.S.;

D. "Participating local government" shall mean a governmental entity lawfully participating in a local government investment pool trust fund established pursuant to sections 11-51-901, et seq. and 24-75-701, et seq., C.R.S.; and

E. "Securities commissioner shall have the same meaning as that term is in sections 11-51-701 and 2475701(11), C.R.S.

519.3 Registration, Reports and Bookkeeping of the Local Government Investment Pool Trust Funds

A. Prior to a local government investment pool trust fund's investment of any trust fund assets, the local government investment pool trust fund board of trustees must register the local government investment pool trust fund with the Securities Commissioner pursuant to section 11-51-905, C.R.S.

B. Quarterly reports to the Securities Commissioner pursuant to section 1151906(2), C.R.S., shall be filed by all local governments investment pool trust funds with the Securities Commissioner within thirty (30) days after the end of the quarter and shall contain the following information:

1. Form TRQ1 (QUARTERLY REPORT TO MEMBERS);

2. Form TRQ2 (PORTFOLIO ASSETS); and

3. Financial Statements that contain a Statement of Net Assets, an Statement of Operations, and a Statement of Changes in Net Assets for the previous quarter.

C. Pursuant to section 2475703(1)(n), C.R.S., quarterly reports to each participating local government shall contain, at a minimum, a Statement of Net Assets, a Statement of Operations, a Statement of Changes in Net Assets and the Quarterly Report to Members Form (Form TRQ1). In addition, the quarterly report to each participating local government shall contain a listing of portfolio assets that, at a minimum, describes each investment instrument by issuer, face value, yield at purchase, final maturity date, cost, and market value.

519.4 Written Policies and Procedures

All local government investment pool trust funds shall establish, maintain, and enforce written policies procedures that are reasonably designed to achieve compliance with the following requirements:

A. Written policies and procedures to ensure that the local government investment pool trust fund complies with GASB Statement No. 79, *Certain External Investment Pools and Pool Participants,* if the fund elects to report on an amortized cost basis. A local government investment pool trust fund that does not comply with GASB Statement No. 79 may continue to operate as a stable Net Asset Value pool but must use fair value for financial reporting purposes in accordance with GASB Statement No. 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools*, or FASB Accounting Standards Codification 820, *Fair Value Measurement*.

B. Written investment policies and procedures that define the credit, liquidity, maturity, and diversification objectives of the local government investment pool trust fund and the means to achieve these objectives. These policies and procedures shall, at a minimum, address:

1. Safety of capital as a priority so as to ensure preservation of principal;

2. Sufficient liquidity be maintained to enable funding of all reasonably expected cash needs given the participant composition and history as well as economic and market conditions;

3. Investment return, taking into consideration a pool's cash flow expectations;

4. Diversification of investment, including deposits adequate to reduce portfolio risks from an over concentration in any specific maturity, issuer, counterparty, depository, security, or class of securities;

5. Defining, monitoring and controlling interest rate risk; and,

6. Compliance with section 24-75-601.1, C.R.S.

C. Written policies and procedures that require the local government investment pool trust fund to monitor redemptions and reduce risk of unusually high redemptions in order to meet participants daily cash flow needs. Each local government investment pool trust fund shall meet or exceed the following minimum liquidity standard:

1. A minimum of 90 percent of a fund's portfolio should be comprised of highly liquid investments and deposits. Liquid investments includes investment that can be redeemed or sold within five business days.

2. A minimum of 10 percent of a fund's portfolio should be comprised of overnight investments or demand deposits;

3. A minimum of 30 percent of a fund's portfolio should be comprised of investments maturing or subject to demand within five business days.

D. Written policies and procedures for managing credit that require a thorough, constant and independent credit analysis process that preserves a stable NAV. These policies shall at a minimum require the following:

1. Utilization of an experienced credit analyst that has the ability to manage and analyze credit risk;

2. For securities other than U.S. Treasuries and Agencies, an approved issuer list that is updated regularly; and

3. Policies that address assessing and liquidating positions in distressed credit situations as well as assessing and monitoring the credit quality and value of pledged collateral.

E. Written policies and procedures requiring the local government investment pool trust fund to perform and maintain the results of, and assumptions used in, connection with, monthly, or more frequent, stress testing. Such written policies and procedures shall further require the board of trustees and investment adviser of the applicable local government investment pool trust fund to review the results of each stress test performed by the local government investment pool trust fund.

F. Written policies and procedures that require each local government investment pool trust fund that utilizes amortized cost accounting to calculate a "shadow" NAV at least monthly.

G. Written policies and procedures that require compliance reviews to be performed at least weekly to assure compliance with investment policies, guidelines and procedures.

H. Written policies and procedures intended to ensure that private information of local government investment pool trust fund participants remains confidential at all times;

I. Written policies and procedures intended to ensure that the local government investment pool trust fund's and its investment adviser(s)' computers, servers, cloud storage and backup system(s), and web-based portals and applications are reasonably protected against cyber-attacks and hardware failure;

J. Written business continuity plan intended to ensure continuous, efficient and timely critical business operations in the event of an emergency and/or unforeseen disruption to normal business operations of the local government investment pool trust fund and/or its investment adviser(s).

519.5 Recordkeeping

A. For a period of not less than five years following a local government investment pool trust fund's replacement of any written policies or procedures with new written policies or procedures, the applicable investment pool trust fund must maintain preserve copies of the replaced policies and/or procedures.

B. For a period of not less than five years following a board of trustees' considerations and actions in connection with the discharge of the board of trustees' responsibilities, a

written record of such considerations and actions must be maintained and preserved by the applicable local government investment pool trust fund.

519.6 Notice to the Commissioner

Each local government investment pool trust fund shall promptly notify the Securities Commissioner, or the Securities Commissioner's designee, by electronic mail of any:

A. Default or insolvency of any issuer of a security that is held by the investment local government investment pool trust fund; and

B. Instance wherein a board of trustees believes that the applicable local government investment pool trust fund may be unable to comply with an actual or potential request by a participating local government to liquidate the participating local government's funds.

Editor's Notes

History

Sections 51-3.5, 51-3.7, 51-4.7, 51-4.8(1A) eff. 12/01/2008.

Sections 51-2.1; 51-3.9(a-g), 51-3.10b; 51-4.1B, 51-4.3, 51-4.4; 51-4.1(1A)(C-D), 51-4.3(1A)(G-I), 51-4.4(1A) A, E-H, 51-4.5(1A)C, 51-4.6(1A)A15(c), 51-4.8(1A)R, 51-4.10(1A), 51-7.1 eff. 11/30/2010.

Section 51-2.1.1.B eff. 10/15/2013.

Sections 51-4.7.G-51-4.7.I eff. 01/30/2015.

Sections 51-4.3.K, 51-4.4(IA).I eff. 06/01/2015.

Sections 51-3.20-51-3.30 emer. rules eff. 08/05/2015.

Sections 51-3.20-51.3.30 eff. 10/15/2015.

Sections 51-3.1, 51-3.7 eff. 01/30/2016.

DEPARTMENT OF REGULATORY AGENCIES

Division of Securities

RULES UNDER THE COLORADO SECURITIES ACT

3 CCR 704-1

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

CHAPTER 9 LOCAL GOVERNMENT INVESTMENT POOL TRUST FUNDS

~~51-9.1 Local Government Investment Pool Trust Funds~~

~~Local government investment pool trust funds shall, at all times, be in substantial compliance with SEC Reg. §270.2a-7, found at 17 CFR 270.2a-7, unless such compliance is first waived by rule or order of the Securities Commissioner. For purposes of this rule, the terms identified below from SEC Reg. §270.2a-7 shall have the following meanings:~~

~~A. "Board of directors" shall have the same meaning as "board of trustees" in section 24-75-701(2), *et seq.*, C.R.S.;~~

~~B. "Shareholder" shall have the same meaning as "participating local government" in section 24-75-701(10), *et seq.*, C.R.S.;~~

~~C. "Investment adviser" shall have the same meaning as "investment adviser", "broker-dealer" or "financial institution acting in an advisory capacity" in section 24-75-701(5), *et seq.*, C.R.S.;~~

~~D. "Commission" and "Director of the Division of Investment Management" shall have the same meaning as "securities commissioner" in section 24-75-701(11), *et seq.*, C.R.S.;~~

~~E. "Money market fund" and "registered investment company" shall have the same meaning as "trust fund" in section 24-75-701(12), *et seq.*, C.R.S.; and~~

~~F. "Act" refers to the federal "Investment Company Act of 1940, as amended," Title 15, U.S.C.~~

~~G. For purposes of 17 CFR 270.2a-7(c)(8), the Securities Commissioner may prescribe a form that is functionally equivalent to Form N-SAR pertaining to record keeping and reporting.~~

~~51-9.2 Reports of the Local Government Investment Pool Trust Funds~~

~~A. Quarterly reports to the Securities Commissioner pursuant to section 11-51-906(2), C.R.S., shall be filed with the Securities Commissioner within thirty (30) days after the end of the quarter and shall contain the following information:~~

~~1. Form TRQ-1 (QUARTERLY REPORT TO MEMBERS);~~

~~2. Form TRQ-2 (PORTFOLIO ASSETS); and~~

~~3. Financial Statements that contain a Balance Sheet, an Income Statement, and a Statement of Changes in Net Assets for the previous quarter.~~

~~B. Pursuant to section 24-75-703(1)(n), C.R.S., quarterly reports to each participating local government shall contain, at a minimum, a Balance Sheet, an Income Statement, a Statement of Changes in Net Assets and the Quarterly Report to Members Form (Form TRQ-1). In addition, the quarterly report to each participating local government shall contain a listing of portfolio assets that, at a minimum, describes each investment instrument by issuer, face value, yield at purchase, final maturity date, cost, and market value.~~

519.1 Authority

The regulations provided in this Chapter 9 have been adopted pursuant to the authority granted to the securities commissioner in sections 11-51-901, et seq. C.R.S. and 24-75-701, et seq., C.R.S.

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G. Written policies and procedures that require compliance reviews to be performed at least weekly to assure compliance with investment policies, guidelines and procedures.

H. Written policies and procedures intended to ensure that private information of local government investment pool trust fund participants remains confidential at all times;

I. Written policies and procedures intended to ensure that the local government investment pool trust fund's and its investment adviser(s)' computers, servers, cloud storage and backup system(s), and web-based portals and applications are reasonably protected against cyber-attacks and hardware failure;

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519.5 Recordkeeping

A. For a period of not less than five years following a local government investment pool trust fund's replacement of any written policies or procedures with new written policies or procedures, the applicable investment pool trust fund must maintain preserve copies of the replaced policies and/or procedures.

B. For a period of not less than five years following a board of trustees' considerations and actions in connection with the discharge of the board of trustees' responsibilities, a written record of such considerations and actions must be maintained and preserved by the applicable local government investment pool trust fund.

519.6 Notice to the Commissioner

Each local government investment pool trust fund shall promptly notify the Securities Commissioner, or the Securities Commissioner's designee, by electronic mail of any:

A. Default or insolvency of any issuer of a security that is held by the investment local government investment pool trust fund; and

B. Instance wherein a board of trustees believes that the applicable local government investment pool trust fund may be unable to comply with an actual or potential request by a participating local government to liquidate the participating local government's funds.

Editor's Notes

History

Sections 51-3.5, 51-3.7, 51-4.7, 51-4.8(1A) eff. 12/01/2008.

Sections 51-2.1; 51-3.9(a-g), 51-3.10b; 51-4.1B, 51-4.3, 51-4.4; 51-4.1(1A)(C-D), 51-4.3(1A)(G-I), 51-4.4(1A) A, E-H, 51-4.5(1A)C, 51-4.6(1A)A15(c), 51-4.8(1A)R, 51-4.10(1A), 51-7.1 eff. 11/30/2010.

Section 51-2.1.1.B eff. 10/15/2013.

Sections 51-4.7.G-51-4.7.I eff. 01/30/2015.
Sections 51-4.3.K, 51-4.4(IA).I eff. 06/01/2015.
Sections 51-3.20-51-3.30 emer. rules eff. 08/05/2015.
Sections 51-3.20-51.3.30 eff. 10/15/2015.
Sections 51-3.1, 51-3.7 eff. 01/30/2016.

Notice of Proposed Rulemaking

Tracking number

2016-00574

Department

700 - Department of Regulatory Agencies

Agency

712 - Division of Professions and Occupations - Colorado Podiatry Board

CCR number

3 CCR 712-8

Rule title

RULE 400 - SUPERVISION OF AND PRACTICE BY PHYSICIAN ASSISTANTS (PAS)

Rulemaking Hearing

Date

12/02/2016

Time

09:00 AM

Location

1560 Broadway, Conference Room 1250A, Denver, CO 80202

Subjects and issues involved

To provide clarification regarding the supervision of physician assistants by podiatrists.

Statutory authority

Sections 12-32-104(1)(a) and 12-32-109.3(2), C.R.S.

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December 2, 2016 Rulemaking Hearing Redline

DEPARTMENT OF REGULATORY AGENCIES

Colorado Podiatry Board

RULE 400 - COLORADO PODIATRY BOARD RULES AND REGULATIONS FOR SUPERVISION OF AND PRACTICE BY PHYSICIAN ASSISTANTS (PAs)

3 CCR 712-8

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

INTRODUCTION

A. Basis. The general authority for promulgation of rules and regulations by the Colorado Podiatry Board is set forth in C.R.S. 12-32-104(1)(a), and specific authority for these rules is set forth in C.R.S. 12-32-109.3(1) and (2).

B. Purpose. The following rules and regulations have been adopted by the Colorado Podiatry Board in order to provide for the utilization of physician assistants by licensed podiatrists and set forth rules for delegation of podiatric tasks and supervision of physician assistants working under the supervision of licensed podiatrists.

C. Scope. These rules govern the licensure and conduct of certified physician assistants and not persons performing delegated podiatric tasks pursuant to C.R.S. 12-32-109(7).

SECTION 1. CERTIFICATION REQUIREMENTS

In order to engage in practice as a physician assistant under the personal and responsible direction of a licensed podiatrist pursuant to the provisions of C.R.S. 12-32-109.3, a physician assistant must hold a current license to practice issued by the Colorado Medical Board.

SECTION 2. EXTENT AND MANNER IN WHICH A PA MAY PERFORM DELEGATED TASKS CONSTITUTING THE PRACTICE OF PODIATRY UNDER PERSONAL AND RESPONSIBLE DIRECTION AND SUPERVISION

I. Mandatory standards to be applied in the direction and supervision of (PAs):

A. Direction and supervision of PAs must be personally rendered by a licensed podiatrist practicing in the State of Colorado and not through intermediaries.

B. The licensed podiatrist is responsible for the performance of delegated podiatric services by PAs. That responsibility requires that the licensed podiatrist assure that those delegated services are performed with a degree of care and skill that would be expected of the licensed podiatrist. The licensed podiatrist is accountable legally for the performance of such supervised persons operating under the podiatrist's direction and supervision.

C. The licensed podiatrist must provide direction to PAs in order to specify what podiatric services should be provided under the circumstances of each case. The function of the direction requirement is to assure that all decisions as to necessity, type, effectiveness and method of treatment are made by the licensed podiatrist who has the requisite skill, judgment and training to make such decisions. Such direction may be provided by written protocols, or by oral communication in person, over the telephone or by other electronic means. The burden shall be on the licensed podiatrist to assure that appropriate

directions are given and that those directions are fully understood by the supervised person.

D. The licensed podiatrist must provide adequate supervision of the performance of delegated podiatric services. Supervision is intended to assure that the directions given are carried out properly. Supervision may include constant over-the-shoulder inspection of the performance of the podiatric services, after-the-fact review through viewing the patient or his chart or conferring with the PA rendering the delegated podiatric services. In determining whether such supervision is adequate, under the circumstances of each case, the licensed podiatrist and the Board shall consider the following factors: (i) the complexity of the task, (ii) the risk to the patient, (iii) the background, training and skill of the person performing the podiatric services, (iv) the adequacy of the direction in terms of its form, (i.e., written or oral) and its specificity, (v) the setting in which the podiatric services are performed (e.g., office, hospital, nursing home, rural clinic or other remote sites), (vi) the availability of the licensed responsible podiatrist or other licensed podiatrists, and (vii) the necessity for immediate attention. Thus, depending on the circumstances of each case, the degree of supervision necessary may vary within the above constraints. It should be noted, however, there is a presumption that the supervising podiatrist shall routinely be present at the location where the PA practices. In circumstances where on-site supervision is not provided, the burden shall be on the podiatrist or the PA or both to establish that the lack of such supervision was reasonable under the circumstances. Specific exemption from this presumption is made for facilities operated by the State Departments of Institutions and Corrections. In addition, there is a presumption that a designated supervising podiatrist cannot adequately supervise more than ~~two~~ four (42) PAs or ~~two~~ four (~~2~~4) non-physician health care providers or a combination thereof at one time, and it shall be the burden of any podiatrist wishing to supervise more than ~~two~~ four such persons to establish, at the time of registration, the contrary to the Board under said podiatrist's particular circumstances. Finally, the licensed podiatrist must review the quality of medical services rendered by each PA every two working days by reviewing medical records to assure compliance with the licensed podiatrist's directions.

II. Identification of PAs

The licensed podiatrist, as part of his supervisory duties, must assure that the PA under his or her supervision (i) is identified as a non-physician to his or her patients by wearing an identification plate upon his or her person setting forth his or her name and non-abbreviated title, and (ii) is not advertised or represented in any manner which would mislead his or her patients or the public generally.

SECTION 3. PRESCRIPTION AND DISPENSING OF DRUGS

I. No controlled substances shall be prescribed by a certified physician assistant.

II. A certified physician assistant may issue a prescription order for any non-controlled substance so long as:

A. The supervising podiatrist has issued written protocols specifying which non-controlled substances he uses in his practice and which may be prescribed by the PA on both a case-by-case and per patient visit basis. For purposes of this rule, "written protocol on a case-by-case basis" means instructions for prescribing by a PA for a new patient or a returning patient who presents new, different or additional signs or symptoms from those previously diagnosed and treated. For purposes of this rule, "written protocol on a per patient visit basis" means instructions for prescribing or refilling a prescription by a PA when a patient returns with recurrent signs or symptoms which have been previously diagnosed; and

B. The order is written, not verbal; and

C. Each and every prescription and refill order is entered on the patient's chart and countersigned and dated by the supervising podiatrist within two days; and

D. Each written prescription order is on the supervising podiatrist's prescription order form and signed by the PA and contains in printed form the name, address and telephone number of the supervising podiatrist and the name of the PA.

III. All drugs dispensed or administered by PAs to third parties shall be prepackaged in a unit-of-use package by the supervising podiatrist, or by a pharmacist acting on the written order of the supervising podiatrist, and shall be labeled to show the name of the supervising podiatrist and the PA.

IV. PA's shall not write or sign prescriptions or perform any services which the supervising podiatrist is not qualified or authorized to prescribe or perform.

V. No drug which a PA is authorized to prescribe, dispense, administer or deliver shall be obtained by said PA from a source other than a supervising podiatrist or a pharmacist.

SECTION 4. REPORTING REQUIREMENTS

Each licensed supervising podiatrist shall file with the Board to information required on the forms provided by the Board within thirty days of the employment of such PA, and shall notify the Board of the termination of employment of any such supervised persons previously registered within seven days of such termination. The filing of such information shall not be deemed as an approval by the Board of the job descriptions of such supervised persons or the adequacy of their direction and supervision by the licensed podiatrist. However, such information will be maintained by the Board for the purposes of (i) investigating complaints against licensed podiatrists supervising such PA's and (ii) maintaining a registry of the licensed podiatrists and PA's.

SECTION 5. DISCIPLINE

Physician assistants are subject to the disciplinary procedures set forth in Section 12-36-118 of the Medical Practice Act.

Notice of Proposed Rulemaking

Tracking number

2016-00567

Department

700 - Department of Regulatory Agencies

Agency

718 - Passenger Tramway Safety Board

CCR number

3 CCR 718-1

Rule title

PASSENGER TRAMWAYS

Rulemaking Hearing

Date

02/23/2017

Time

09:00 AM

Location

1560 Broadway, Conference Room 1250-C, Denver CO 80202

Subjects and issues involved

Adoption of Rule 4.3.2.5, Rule 4.3.2.5.1, Rule 4.3.2.5.2, Rule 4.3.2.5.3, Rule 4.3.2.5.4, Rule 4.3.2.5.5, Rule 4.3.2.5.6, Rule 4.3.2.5.7, Rule 4.3.2.5.8, Rule 4.3.2.5.9, and Rule 4.3.2.5.10

Statutory authority

25-5-704 (1) (a)

Contact information

Name

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4.3.2.5 Operational requirements

4.3.2.5.1 General

The owner and supervisor of each aerial lift shall review the requirements of Section 4 and referenced Annexes of this standard to ascertain that original design and installation conditions have not been altered in a manner so as to violate the requirements of the standard.

4.3.2.5.2 Preoperational minimum ridership requirements

Each licensee shall have an operational plan that identifies criteria for pre-operational tramway inspections for the transportation of personnel on aerial ropeways. Implementation of these procedures is intended for the protection of all personnel and shall be the responsibility of the area operator, supervisor, and the authorized individual.

The preoperational plan shall include, but not be limited to:

Minimum Requirements

Prior to the daily preoperational ride and the completion of X.3.2.4.2 Daily preoperational inspection, or any initial start-up of the ropeway, the following minimum steps shall be taken;

1. At least one brake and stop switch has been operated and proves to function properly, and either items 2 or 3 are performed.

2. The ropeway is operated slowly for a minimum of three (3) minutes, or a length of time equal to the time a carrier takes to cross the longest span on the installation.

3. The lift line is visually inspected in one of two ways:
   a) The entire lift line is visually inspected from the ground by trained personnel.
   b) The lift line inspection occurs while riding the aerial ropeway. If this method is used, the first rider shall be in constant communication with the operator.

The plan shall also include the following requirements:

i) **Evacuation of pre-ride personnel.** The number of available evacuation personnel, the method of transportation of those persons, the required evacuation equipment and the method of transport of evacuated personnel.

ii) **Trained operational and maintenance availability**. A requirement that trained operational and maintenance personnel shall be immediately available to attempt to restart the tramway if the tramway stops.

For the purpose of this rule, ª area employeeº means an individual: (1) who performs services for an area operator, as that term is defined by section 25-5-702(1), C.R.S.; (2) who receives financial compensation directly from the area operator for those services; and (3) whose services only the area operator has the right to control (i.e., the area operator has the right to direct the services the individual will perform for the area operator and how the individual will perform those services).

A. For Licensed Ropeways and Unlicensed Ropeways After Initial Testing, including Expired Licenses

An area employee that is directly related to the opening of the aerial lift (i.e. Ski Patrol, Lift Maintenance, and Lift Operators) shall conduct the pre-operational inspection ride. If any other area employee is to ride the lift

prior to the completion of the pre-operational inspection, the personnel responsible for the pre-operational inspection ride shall ride in the first carriers in front of the area employee. As used in this rule, the term ª area employeeº specifically excludes independent contractors, subcontractors, vendors, and their personnel.

B. Unlicensed Ropeways Prior to Testing and Licensing

Only personnel related to the completion of the construction, operation, and buildings directly related to the operation of the tramway may be transported by the tramway prior to testing and licensing.

4.3.2.5.3 Starting

Following procedural clearances, the aerial lift shall be started by the operator or at the direction of the operator. Capability for starting from other locations may be provided for maintenance or emergency operation.

4.3.2.5.4 Loading and unloading platforms

The maze or corral, loading platform surface, breakover point, and the load/unload seat height shall be reasonably maintained according to the prevailing weather conditions and established procedures.

4.3.2.5.5 Stops

After any stop of an aerial lift, the operator shall determine the cause of the stop, and not restart until clearance has been obtained from all attended stations.

4.3.2.5.6 Termination of daily operations

Procedures shall be established for terminating daily operations in such a manner that passengers will not be left on the aerial lift after it has been shut down. Loading ramps, as required, shall be closed and so marked.

When either loading or unloading portions of an intermediate station are not in operation, it shall be so signed and the loading station shall be closed to public access.

4.3.2.5.7 Damage to carriers

Should any carrier become damaged or otherwise rendered unfit for passenger transportation during normal operation, it shall be clearly and distinctively marked and not used for passengers until repaired or replaced. It shall be removed from the line as soon as feasible.

4.3.2.5.8 Hazardous conditions

When wind or icing conditions are such that operation is hazardous to passengers or equipment, according to predetermined criteria based upon the area's operational experience and the designer's design considerations, the aerial lift shall be unloaded and the operation discontinued. If necessary under the predetermined criteria, device(s) shall be installed at appropriate location(s) to ascertain wind velocity and direction when aerial lifts are operated. No aerial lift shall operate when there is an electrical storm in the immediate vicinity. Should such conditions develop while the aerial lift is in operation, loading of passengers shall be terminated, and operation shall be continued only as long as necessary to unload all passengers. When such shutdown has been caused by an electrical storm, grounding of control circuits and haul ropes that are used as conductors in communication systems is permissible. Such grounding shall be removed prior to resumption of passenger operations.

4.3.2.5.9 Bypass requirements

The use of temporary circuits that have been installed for the purpose of bypassing failed electrical circuit(s) (see 4.2.6) shall meet these requirements in the following order:

a) The condition that the circuit indicated is in default shall be thoroughly inspected to ensure an electrical operating circuit malfunction, rather than the indicated condition, actually exists;

b) The bypass shall be authorized only by the aerial lift supervisor or his/her designated representative;

c) When a bypass is in operation, the function bypassed shall be under constant, close visual observation;

d) The use of a bypass circuit shall be logged and shall indicate when, who authorized, and for what duration a bypass was used;

e) The operator control panel shall indicate that a bypass is in use.

4.3.2.5.10 Evacuation

A plan for evacuation of passengers from each aerial lift shall be developed and documented. The plan shall include:

a) the definition of the line of authority in the event of an evacuation. This line of authority shall list:

1) the positions responsible for determining the need for and ordering an evacuation by use of the evacuation power unit or evacuation from individual carriers;

2) the personnel responsible for performing the evacuation, for first aid, and for ground care of evacuated passengers.

b) a description of the equipment necessary for evacuation and where it will be stored;

c) provisions for adequate training in the functions performed in the evacuation process at least once each operating season. Such drills are to be recorded in the operational log of each aerial lift (see 4.3.5.1);

d) an estimate of the time necessary for the total evacuation of each aerial lift;

e) a description of unusual terrain conditions and how each of these conditions will be dealt with during an evacuation;

f) an estimate of when the evacuation should begin in the event the aerial lift becomes inoperable;

g) provisions for communications with passengers of an inoperable aerial lift, the frequency of such communication, how soon after the aerial lift becomes inoperable such communication to the passengers will start, and the frequency of communications thereafter;

h) the methods of evacuation to be used for the typical passenger, incapacitated passenger, passengers using common adaptive ski equipment, and non-ambulatory passengers;

i) provisions for communication with the evacuation teams;

j) provisions for suspending the evacuation in the event that the aerial lift is made operable during the evacuation;

k) provisions for control and assistance of evacuated persons until released;

l) provisions for a post-evacuation report.

All nonmetallic rope used for evacuation shall be of nylon or polyester (Dacron) fiber of either laid or braided construction. Laid rope of nylon shall be of a hard lay. These ropes shall be either of a static rescue type or a dynamic mountaineering type. Breaking strength, when new, shall be at least 15 times the maximum expected operating load but in no case less than 4000 pounds (17.8 kilonewtons). No natural fiber or polypropylene ropes shall be used.

These ropes shall be carefully stored when not in use and shall be examined after each completed aerial lift evacuation and prior to each season of operation, both summer and winter, to ascertain that they are in satisfactory condition.

Carabiners, if used, shall be of the locking type.

COLORADO
Department of
Regulatory Agencies
Division of Professions and Occupations

Business and Inspections Branch
Passenger Tramway Safety Board

NOTICE OF RULE MAKING HEARING

Pursuant to section 25-5-704 (1) (a) of the Colorado Revised Statutes, you are hereby advised that the Colorado Passenger Tramway Safety Board will be holding a public rule making hearing on Thursday, February 23, 2017, commencing at 9:00 a.m. at 1560 Broadway, Conference Room 1250-C, Denver, Colorado for the purpose of considering the following.

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

Rule 4.3.2.5	**Operational requirements**
Rule 4.3.2.5.1	**General**
Rule 4.3.2.5.2	**Pre-operational minimum ridership requirements**
Rule 4.3.2.5.3	**Starting**
Rule 4.3.2.5.4	**Loading and unloading platforms**
Rule 4.3.2.5.5	**Stops**
Rule 4.3.2.5.6	**Termination of daily operations**
Rule 4.3.2.5.7	**Damage to carriers**
Rule 4.3.2.5.8	**Hazardous conditions**
Rule 4.3.2.5.9	**Bypass requirements**
Rule 4.3.2.5.10	**Evacuation**

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

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

Dated this 28th day of October, 2016.

BY ORDER OF THE COLORADO PASSENGER TRAMWAY SAFETY BOARD

Joyce J. Young, Program Director

Notice of Proposed Rulemaking

Tracking number

2016-00566

Department

700 - Department of Regulatory Agencies

Agency

718 - Passenger Tramway Safety Board

CCR number

3 CCR 718-1

Rule title

PASSENGER TRAMWAYS

Rulemaking Hearing

Date

02/23/2017

Time

09:00 AM

Location

1560 Broadway, Conference Room 1250-C, Denver CO 80202

Subjects and issues involved

Adoption of Rule 3.3.2.5, Rule 3.3.2.5.1, Rule 3.3.2.5.2, Rule 3.3.2.5.3, Rule 3.3.2.5.4, Rule 3.3.2.5.5, Rule 3.3.2.5.6, Rule 3.3.2.5.7, Rule 3.3.2.5.8, Rule 3.3.2.5.9, and Rule 3.3.2.5.10

Statutory authority

25-5-704 (1) (a)

Contact information

Name

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nicki.cochrell@state.co.us

3.3.2.5 Operational requirements

3.3.2.5.1 General

The owner and supervisor of each aerial lift shall review the requirements of Section 3 and referenced Annexes of this standard to ascertain that original design and installation conditions have not been altered in a manner so as to violate the requirements of the standard.

3.3.2.5.2 Preoperational minimum ridership requirements

Each licensee shall have an operational plan that identifies criteria for pre-operational tramway inspections for the transportation of personnel on aerial ropeways. Implementation of these procedures is intended for the protection of all personnel and shall be the responsibility of the area operator, supervisor, and the authorized individual.

The preoperational plan shall include, but not be limited to:

Minimum Requirements

Prior to the daily preoperational ride and the completion of X.3.2.4.2 Daily preoperational inspection, or any initial start-up of the ropeway, the following minimum steps shall be taken;

1. At least one brake and stop switch has been operated and proves to function properly, and either items 2 or 3 are performed.

2. The ropeway is operated slowly for a minimum of three (3) minutes, or a length of time equal to the time a carrier takes to cross the longest span on the installation.

3. The lift line is visually inspected in one of two ways:
   a) The entire lift line is visually inspected from the ground by trained personnel.
   b) The lift line inspection occurs while riding the aerial ropeway. If this method is used, the first rider shall be in constant communication with the operator.

The plan shall also include the following requirements:

> i) **Evacuation of pre-ride personnel.** The number of available evacuation personnel, the method of transportation of those persons, the required evacuation equipment and the method of transport of evacuated personnel.
>
> ii) **Trained operational and maintenance availability**. A requirement that trained operational and maintenance personnel shall be immediately available to attempt to restart the tramway if the tramway stops.

For the purpose of this rule, ª area employeeº means an individual: (1) who performs services for an area operator, as that term is defined by section 25-5-702(1), C.R.S.; (2) who receives financial compensation directly from the area operator for those services; and (3) whose services only the area operator has the right to control (i.e., the area operator has the right to direct the services the individual will perform for the area operator and how the individual will perform those services).

A. For Licensed Ropeways and Unlicensed Ropeways After Initial Testing, including Expired Licenses

An area employee that is directly related to the opening of the aerial lift (i.e. Ski Patrol, Lift Maintenance, and Lift Operators) shall conduct the pre-operational inspection ride. If any other area employee is to ride the lift prior to the completion of the pre-operational inspection, the personnel responsible for the pre-operational

inspection ride shall ride in the first carriers in front of the area employee. As used in this rule, the term ª area employeeº specifically excludes independent contractors, subcontractors, vendors, and their personnel.

B. Unlicensed Ropeways Prior to Testing and Licensing

Only personnel related to the completion of the construction, operation, and buildings directly related to the operation of the tramway may be transported by the tramway prior to testing and licensing.

3.3.2.5.3 Starting

Following procedural clearances, the aerial lift shall be started by the operator or at the direction of the operator. Capability for starting from other locations may be provided for maintenance or emergency operation.

3.3.2.5.4 Loading and unloading platforms

The maze or corral, loading platform surface, breakover point, and the load/unload seat height shall be reasonably maintained according to the prevailing weather conditions and established procedures.

3.3.2.5.5 Stops

After any stop of an aerial lift, the operator shall determine the cause of the stop, and not restart until clearance has been obtained from all attended stations.

3.3.2.5.6 Termination of daily operations

Procedures shall be established for terminating daily operations in such a manner that passengers will not be left on the aerial lift after it has been shut down. Loading ramps, as required, shall be closed and so marked.

When either loading or unloading portions of an intermediate station are not in operation, it shall be so signed and the loading station shall be closed to public access.

3.3.2.5.7 Damage to carriers

Should any carrier become damaged or otherwise rendered unfit for passenger transportation during normal operation, it shall be clearly and distinctively marked and not used for passengers until repaired or replaced. It shall be removed from the line as soon as feasible.

3.3.2.5.8 Hazardous conditions

When wind or icing conditions are such that operation is hazardous to passengers or equipment, according to predetermined criteria based upon the area's operational experience and the designer's design considerations, the aerial lift shall be unloaded and the operation discontinued. If necessary under the predetermined criteria, device(s) shall be installed at appropriate location(s) to ascertain wind velocity and direction when aerial lifts are operated. No aerial lift shall operate when there is an electrical storm in the immediate vicinity. Should such conditions develop while the aerial lift is in operation, loading of passengers shall be terminated, and operation shall be continued only as long as necessary to unload all passengers. When such shutdown has been caused by an electrical storm, grounding of control circuits and haul ropes that are used as conductors in communication systems is permissible. Such grounding shall be removed prior to resumption of passenger operations.

3.3.2.5.9 Bypass requirements

The use of temporary circuits that have been installed for the purpose of bypassing failed electrical circuit(s) (see 3.2.6) shall meet these requirements in the following order:

a) The condition that the circuit indicated is in default shall be thoroughly inspected to ensure an electrical operating circuit malfunction, rather than the indicated condition, actually exists;

b) The bypass shall be authorized only by the aerial lift supervisor or his/her designated representative;

c) When a bypass is in operation, the function bypassed shall be under constant, close visual observation;

d) The use of a bypass circuit shall be logged and shall indicate when, who authorized, and for what duration a bypass was used;

e) The operator control panel shall indicate that a bypass is in use.

3.3.2.5.10 Evacuation

A plan for evacuation of passengers from each aerial lift shall be developed and documented. The plan shall include:

a) the definition of the line of authority in the event of an evacuation. This line of authority shall list:

1) the positions responsible for determining the need for and ordering an evacuation by use of the evacuation power unit or evacuation from individual carriers;

2) the personnel responsible for performing the evacuation, for first aid, and for ground care of evacuated passengers.

b) a description of the equipment necessary for evacuation and where it will be stored;

c) provisions for adequate training in the functions performed in the evacuation process at least once each operating season. Such drills are to be recorded in the operational log of each aerial lift (see 3.3.5.1);

d) an estimate of the time necessary for the total evacuation of each aerial lift;

e) a description of unusual terrain conditions and how each of these conditions will be dealt with during an evacuation;

f) an estimate of when the evacuation should begin in the event the aerial lift becomes inoperable;

g) provisions for communications with passengers of an inoperable aerial lift, the frequency of such communication, how soon after the aerial lift becomes inoperable such communication to the passengers will start, and the frequency of communications thereafter;

h) the methods of evacuation to be used for the typical passenger, incapacitated passenger, passengers using common adaptive ski equipment, and non-ambulatory passengers;

i) provisions for communication with the evacuation teams;

j) provisions for suspending the evacuation in the event that the aerial lift is made operable during the evacuation;

k) provisions for control and assistance of evacuated persons until released;

l) provisions for a post-evacuation report.

All nonmetallic rope used for evacuation shall be of nylon or polyester (Dacron) fiber of either laid or braided construction. Laid rope of nylon shall be of a hard lay. These ropes shall be either of a static rescue type or a dynamic mountaineering type. Breaking strength, when new, shall be at least 15 times the maximum expected operating load but in no case less than 4000 pounds (17.8 kilonewtons). No natural fiber or polypropylene ropes shall be used.

These ropes shall be carefully stored when not in use and shall be examined after each completed aerial lift evacuation and prior to each season of operation, both summer and winter, to ascertain that they are in satisfactory condition.

Carabiners, if used, shall be of the locking type.

COLORADO
Department of
Regulatory Agencies
Division of Professions and Occupations

Business and Inspections Branch
Passenger Tramway Safety Board

NOTICE OF RULE MAKING HEARING

Pursuant to section 25-5-704 (1) (a) of the Colorado Revised Statutes, you are hereby advised that the Colorado Passenger Tramway Safety Board will be holding a public rule making hearing on Thursday, February 23, 2017, commencing at 9:00 a.m. at 1560 Broadway, Conference Room 1250-C, Denver, Colorado for the purpose of considering the following.

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

Rule 3.3.2.5	**Operational requirements**
Rule 3.3.2.5.1	**General**
Rule 3.3.2.5.2	**Pre-operational minimum ridership requirements**
Rule 3.3.2.5.3	**Starting**
Rule 3.3.2.5.4	**Loading and unloading platforms**
Rule 3.3.2.5.5	**Stops**
Rule 3.3.2.5.6	**Termination of daily operations**
Rule 3.3.2.5.7	**Damage to carriers**
Rule 3.3.2.5.8	**Hazardous conditions**
Rule 3.3.2.5.9	**Bypass requirements**
Rule 3.3.2.5.10	**Evacuation**

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

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

Dated this 28th day of October, 2016.

BY ORDER OF THE COLORADO PASSENGER TRAMWAY SAFETY BOARD

Joyce J. Young, Program Director

Notice of Proposed Rulemaking

Tracking number

2016-00565

Department

700 - Department of Regulatory Agencies

Agency

718 - Passenger Tramway Safety Board

CCR number

3 CCR 718-1

Rule title

PASSENGER TRAMWAYS

Rulemaking Hearing

Date

02/23/2017

Time

09:00 AM

Location

1560 Broadway, Conference Room 1250-C, Denver CO 80202

Subjects and issues involved

Adoption of Rule 2.3.2.5, Rule 2.3.2.5.1, Rule 2.3.2.5.2, Rule 2.3.2.5.3, Rule 2.3.2.5.4, Rule 2.3.2.5.5, Rule 2.3.2.5.6, Rule 2.3.2.5.7, Rule 2.3.2.5.8, Rule 2.3.2.5.9, and Rule 2.3.2.5.10

Statutory authority

25-5-704 (1) (a)

Contact information

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2.3.2.5 Operational requirements

2.3.2.5.1 General

The owner and supervisor of each aerial lift shall review the requirements of Section 2 and referenced Annexes of this standard to ascertain that original design and installation conditions have not been altered in a manner so as to violate the requirements of the standard.

2.3.2.5.2 Preoperational minimum ridership requirements

Each licensee shall have an operational plan that identifies criteria for pre-operational tramway inspections for the transportation of personnel on aerial ropeways. Implementation of these procedures is intended for the protection of all personnel and shall be the responsibility of the area operator, supervisor, and the authorized individual.

The preoperational plan shall include, but not be limited to:

Minimum Requirements

Prior to the daily preoperational ride and the completion of X.3.2.4.2 Daily preoperational inspection, or any initial start-up of the ropeway, the following minimum steps shall be taken;

1. At least one brake and stop switch has been operated and proves to function properly, and either items 2 or 3 are performed.

2. The ropeway is operated slowly for a minimum of three (3) minutes, or a length of time equal to the time a carrier takes to cross the longest span on the installation.

3. The lift line is visually inspected in one of two ways:
   a) The entire lift line is visually inspected from the ground by trained personnel.
   b) The lift line inspection occurs while riding the aerial ropeway. If this method is used, the first rider shall be in constant communication with the operator.

The plan shall also include the following requirements:

i) **Evacuation of pre-ride personnel.** The number of available evacuation personnel, the method of transportation of those persons, the required evacuation equipment and the method of transport of evacuated personnel.

ii) **Trained operational and maintenance availability**. A requirement that trained operational and maintenance personnel shall be immediately available to attempt to restart the tramway if the tramway stops.

For the purpose of this rule, ª area employeeº means an individual: (1) who performs services for an area operator, as that term is defined by section 25-5-702(1), C.R.S.; (2) who receives financial compensation directly from the area operator for those services; and (3) whose services only the area operator has the right to control (i.e., the area operator has the right to direct the services the individual will perform for the area operator and how the individual will perform those services).

A. For Licensed Ropeways and Unlicensed Ropeways After Initial Testing, including Expired Licenses

An area employee that is directly related to the opening of the aerial lift (i.e. Ski Patrol, Lift Maintenance, and Lift Operators) shall conduct the pre-operational inspection ride. If any other area employee is to ride the lift

prior to the completion of the pre-operational inspection, the personnel responsible for the pre-operational inspection ride shall ride in the first carriers in front of the area employee. As used in this rule, the term ª area employeeº specifically excludes independent contractors, subcontractors, vendors, and their personnel.

B. Unlicensed Ropeways Prior to Testing and Licensing

Only personnel related to the completion of the construction, operation, and buildings directly related to the operation of the tramway may be transported by the tramway prior to testing and licensing.

2.3.2.5.3 Starting

Following procedural clearances, the aerial lift shall be started by the operator or at the direction of the operator.

2.3.2.5.4 (Reserved)

2.3.2.5.5 Stops

After any stop of an aerial lift, the operator shall determine the cause of the stop, and not restart until clearance has been obtained from all attended stations.

2.3.2.5.6 Termination of daily operations

Procedures shall be established for terminating daily operations in such a manner that passengers will not be left on the aerial lift after it has been shut down. Loading ramps, as required, shall be closed and so marked.

When either loading or unloading portions of an intermediate station are not in operation, it shall be so signed and the loading station shall be closed to public access.

2.3.2.5.7 Damage to carriers

Should any carrier become damaged or otherwise rendered unfit for passenger transportation during normal operation, it shall be clearly and distinctively marked and not used for passengers until repaired or replaced. It shall be removed from the line as soon as feasible.

2.3.2.5.8 Hazardous conditions

When wind or icing conditions are such that operation is hazardous to passengers or equipment, according to predetermined criteria based upon the area' s operational experience and the designer' s design considerations, the aerial lift shall be unloaded and the operation discontinued. If necessary under the predetermined criteria, device(s) shall be installed at appropriate location(s) to ascertain wind velocity and direction when aerial lifts are operated. No aerial lift shall operate when there is an electrical storm in the immediate vicinity. Should such conditions develop while the aerial lift is in operation, loading of passengers shall be terminated, and operation shall be continued only as long as necessary to unload all passengers. When such shutdown has been caused by an electrical storm, grounding of control circuits and haul ropes that are used as conductors in communication systems is permissible. Such grounding shall be removed prior to resumption of passenger operations.

2.3.2.5.9 Bypass requirements

The use of temporary circuits that have been installed for the purpose of bypassing failed electrical circuit(s) (see 2.2.6) shall meet these requirements in the following order:

a) The condition that the circuit indicated is in default shall be thoroughly inspected to ensure an electrical operating circuit malfunction, rather than the indicated condition, actually exists;

b) The bypass shall be authorized only by the aerial lift supervisor or his/her designated representative;

c) When a bypass is in operation, the function bypassed shall be under constant, close visual observation;

d) The use of a bypass circuit shall be logged and shall indicate when, who authorized, and for what duration a bypass was used;

e) The operator control panel shall indicate that a bypass is in use.

2.3.2.5.10 Evacuation

A plan for evacuation of passengers from each aerial lift shall be developed and documented. The plan shall include:

a) the definition of the line of authority in the event of an evacuation. This line of authority shall list:

1) the positions responsible for determining the need for and ordering an evacuation by use of the evacuation power unit or evacuation from individual carriers;

2) the personnel responsible for performing the evacuation, for first aid, and for ground care of evacuated passengers.

b) a description of the equipment necessary for evacuation and where it will be stored;

c) provisions for adequate training in the functions performed in the evacuation process at least once each operating season. Such drills are to be recorded in the operational log of each aerial tramway (see 2.3.5.1);

d) an estimate of the time necessary for the total evacuation of each aerial lift;

e) a description of unusual terrain conditions and how each of these conditions will be dealt with during an evacuation;

f) an estimate of when the evacuation should begin in the event the aerial lift becomes inoperable;

g) provisions for communications with passengers of an inoperable aerial lift, the frequency of such communication, how soon after the aerial tramway becomes inoperable such communication to the passengers will start, and the frequency of communications thereafter;

h) the methods of evacuation to be used for the typical passenger, incapacitated passenger, passengers using common adaptive ski equipment, and non-ambulatory passengers;

i) provisions for communication with the evacuation teams;

j) provisions for suspending the evacuation in the event that the aerial lift is made operable during the evacuation;

k) provisions for control and assistance of evacuated persons until released;

l) provisions for a post-evacuation report.

All nonmetallic rope used for evacuation shall be of nylon or polyester (Dacron) fiber of either laid or braided construction. Laid rope of nylon shall be of a hard lay. These ropes shall be either of a static rescue type or a dynamic mountaineering type. Breaking strength, when new, shall be at least 15 times the maximum expected operating load but in no case less than 4000 pounds (17.8 kilonewtons). No natural fiber or polypropylene ropes shall be used.

These ropes shall be carefully stored when not in use and shall be examined after each completed aerial lift evacuation and prior to each season of operation, both summer and winter, to ascertain that they are in satisfactory condition.

Carabiners, if used, shall be of the locking type.

COLORADO
Department of
Regulatory Agencies
Division of Professions and Occupations

Business and Inspections Branch
Passenger Tramway Safety Board

NOTICE OF RULE MAKING HEARING

Pursuant to section 25-5-704 (1) (a) of the Colorado Revised Statutes, you are hereby advised that the Colorado Passenger Tramway Safety Board will be holding a public rule making hearing on Thursday, February 23, 2017, commencing at 9:00 a.m. at 1560 Broadway, Conference Room 1250-C, Denver, Colorado for the purpose of considering the following.

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

Rule 2.3.2.5	**Operational requirements**
Rule 2.3.2.5.1	**General**
Rule 2.3.2.5.2	**Pre-operational minimum ridership requirements**
Rule 2.3.2.5.3	**Starting**
Rule 2.3.2.5.4	**Reserved**
Rule 2.3.2.5.5	**Stops**
Rule 2.3.2.5.6	**Termination of daily operations**
Rule 2.3.2.5.7	**Damage to carriers**
Rule 2.3.2.5.8	**Hazardous conditions**
Rule 2.3.2.5.9	**Bypass requirements**
Rule 2.3.2.5.10	**Evacuation**

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

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

Dated this 28th day of October, 2016.

BY ORDER OF THE COLORADO PASSENGER TRAMWAY SAFETY BOARD

Joyce J. Young, Program Director

Notice of Proposed Rulemaking

Tracking number

2016-00558

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-1

Rule title

RULES REGARDING REAL ESTATE BROKERS

Rulemaking Hearing

Date

12/06/2016

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO 80202

Subjects and issues involved

RULE E. SEPARATE ACCOUNTS RECORDS ACCOUNTINGS - INVESTIGATIONS
E-47.Competency

Statutory authority

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

Contact information

Name

Martha Torres-Recinos

Title

Rulemaking Administrator

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

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
December 6, 2016

RULE E. SEPARATE ACCOUNTS – RECORDS – ACCOUNTINGS - INVESTIGATIONS

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

STATEMENT OF BASIS

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

STATEMENT OF PURPOSE

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

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rule is to establish the professional standards necessary to gain competence to practice real estate brokerage.

PROPOSED NEW, AMENDED AND REPEALED RULES

Deleted material shown ~~struck through~~, new material shown ALL CAPS. Rules, or portions of rules, which are unaffected are reproduced.

Proposed New, Amended and Repealed Rules

Rule E. Separate Accounts – Records – Accountings - Investigations

E-47. COMPETENCY

ON EVERY OCCASION OF ENGAGING IN THE PRACTICE OF REAL ESTATE BROKERAGE, A BROKER MUST DETERMINE WHETHER HE OR SHE POSSESSES THE NECESSARY EXPERIENCE, TRAINING, AND/OR KNOWLEDGE TO PROVIDE BROKERAGE SERVICES AND MAINTAIN COMPLIANCE WITH THE APPLICABLE FEDERAL, STATE AND LOCAL LAWS, RULES, REGULATIONS AND ORDINANCES. IF THE BROKER DOES NOT HAVE THE NECESSARY EXPERIENCE, TRAINING, AND/OR KNOWLEDGE, THE BROKER MUST: DECLINE TO PROVIDE BROKERAGE SERVICES; OBTAIN THE NECESSARY EXPERIENCE, TRAINING AND/OR KNOWLEDGE; OR THE BROKER MUST SEEK THE ASSISTANCE OF ANOTHER LICENSED BROKER WHO DOES HAVE THE NECESSARY EXPERIENCE, TRAINING AND KNOWLEDGE.

A hearing on the above subject matter will be held on Tuesday, December 6, 2016 at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250C, Denver, Colorado 80202 beginning at 9:00 a.m.

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

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.

Notice of Proposed Rulemaking

Tracking number

2016-00561

Department

700 - Department of Regulatory Agencies

Agency

733 - Division of Professions and Occupations - Office of Outfitters Registration

CCR number

4 CCR 733-1

Rule title

RULES AND REGULATIONS OF THE OFFICE OF OUTFITTERS REGISTRATION

Rulemaking Hearing

Date

12/05/2016

Time

11:00 AM

Location

1560 Broadway Suite 1250A Denver, CO 80202

Subjects and issues involved

We are repealing all old rules and revising all chapters related to applying to becoming an Outfitter, maintenance requirements, reporting records and contract requirements, Outfitters responsibilities and conduct and advisory committee composition.

Statutory authority

§§24-4-103, and 12-55.5-104(1)(a), C.R.S.

Contact information

Name

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Title

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DEPARTMENT OF REGULATORY AGENCIES

OFFICE OF OUTFITTER REGISTRATION

4 CCR 733-1

RULES OF THE OFFICE OF OUTFITTER REGISTRATION

Effective Date: ~~October 1~~_____, ~~2011~~_____TBD

CHAPTER 1
GENERAL ~~DEFINITIONS~~ PROVISIONS

1.~~100~~. Citation.

For ease of reference, these Rules of the Office of Outfitter Registration may also be cited as the "Outfitter Rules".

1.~~201~~. Scope and Applicability.

These Outfitter Rules ~~of the Office of Outfitter Registration~~ apply to outfitters and guides, as those terms are defined by § 12-55.5-102, C.R.S., and to any other persons over whom the ~~Office~~ Director has jurisdiction under Article 55.5 of Title 12, C.R.S.

~~1.1102~~1.3. ~~DEFINITIONS~~Definitions.

Terms defined in § 12-55.5-102, C.R.S. shall have the same meaning in these rules. In addition, ~~In addition to the definitions found in Colorado Revised Statutes ("C.R.S.") §12-55.5-102, the following shall apply:~~ ~~T~~the following definitions apply throughout the~~ese~~ Outfitter Rules ~~of the Office of Outfitter Registration~~, unless a specific statute or rule provides otherwise:

A. ~~A. ADVERTISEMENT. The~~ "Advertisement" means the attempt by publication, dissemination, solicitation, or circulation, whether by visual, oral, electronic, or written means, to induce directly or indirectly any person to enter into an agreement with an outfitter.

B. ~~B. ADVISORY COMMITTEE. Individuals~~ "Advisory Committee" means the body of individuals appointed by the ~~d~~Director ~~to provide recommendations regarding industry related issues, in accordance with C.R.S.~~ under § 12-55.5-111, C.R.S.

C. ~~C. AUTHORIZED AGENT. "~~Authorized agent" means any peace officer as defined in ~~C.R.S. §~~§ 12-55.5-102(6), C.R.S.; a local, state, or federal law enforcement officer; or an investigator employed by a district attorney, the attorney general, or the ~~division of registrations~~ Division.

D. ~~D. BOOKING AGENT. An~~ "Booking agent" means any person or entity who ~~individual or business entity which~~ has entered into a contractual relationship or who is authorized by ~~with~~ an outfitter~~, as defined in C.R.S. §§12-55.5-102(5),~~ to solicit outfitting services on behalf of an outfitter.
Add in written before contractual. Instead of or, make it "and".

E. ~~E. CLIENT. A~~ "Client" means an individual, a group of individuals, or any person ~~who~~ that engages the services of an ~~registered~~ outfitter.

F. ~~F.~~ "C.R.S." means the Colorado Revised Statutes.

G. ~~G. DIRECTOR. In addition to the definition found in C.R.S. §12-55.5-102(2), the director can be the division director's designee.~~ "Director" means the Director of the Division or the Director's designee.

H. ~~H.~~ "Division" means the Division of Professions and Occupations in the Department of Regulatory Agencies.

~~I. "Entity" means, unless the context requires otherwise, a non-natural person authorized by Colorado law to conduct business, including, for example, a corporation, a limited liability company, or a partnership.~~

I. ~~J.~~ "Game Management Unit" means a hunt area as described in current big or trophy game management unit as determined by the Colorado Department of Natural Resources.

J. ~~GJK.~~ "Guide" means, in addition to the meaning set forth in § 12-55.5-102(4), C.R.S., a~~n Outfitter~~ registrant or an employee or independent contractor of a~~n Outfitter~~ registrant whose duties include management of outfitter operations and/or guiding, leading, or assisting any person to and form a place where such person expects to hunt to take fish or wildlife.

K. ~~L. OFFICE. The~~ "Office" means the Division's Office of Outfitters Registration.

L. ~~IL.~~ "Registrant" means an~~y person~~ individual or entity registered as an outfitter under § 12-55.5-105, C.R.S., regardless of the registration status as active, probated, or suspended. The definition of an Outfitter is found in § 12-55.5-102 (5), C.R.S. For purposes of these Rules, Registrant is an Outfitter.

M. ~~P. REGISTRATION.~~ "Registration" means the authorization granted ~~A form of licensure issued~~ by the ~~director~~Director after meeting all the requirements in ~~pursuant to~~ the provisions of C.R.S. §12-55.5-105.~~, .~~ ~~and shall be renewable subject to approval by the director.~~

N. ~~QJM. REINSTATEMENT. The~~ "Reinstatement" means the process by which an ~~individual or entity registrant that has~~ expired registration is returned to active status.

O. ~~RKN. RENEWAL. The~~ "Renewal" means the process of applying to retain ~~the individual or entity~~ a registration in an active status ~~every year~~ on ~~in accordance with the~~a schedule ~~determined~~~~established~~ by the ~~division of registrations~~ Director pursuant to ~~C.R.S.~~ §§ 12-55.5-105~~(~~(5) and 24-34-102, C.R.S.

~~**SLO. RESPONSIBLE PARTY. An individual designated to be the responsible party and agent for a registered entity.**~~ **"Responsible party and agent" means an officer, ~~director~~director, member, partner, or other controlling or managing individual of an entity registrant, designated by such registrant to be responsible for all communications with the Division.**

P. "Take" means to hunt, pursue, catch, capture, shoot, trap, kill, or possess any fish or wildlife or to attempt to hunt, pursue, catch, capture, shoot, trap, kill, or possess any fish or wildlife.

CHAPTER 2

~~ISSUANCE OF OUTFITTERS~~ REGISTRATION APPLICATION AND ~~,~~ ISSUANCE ~~,~~ RENEWAL, ~~AND REINSTATEMENT~~ ~~FOR INDIVIDUALS~~

2.1. ~~-~~General Information

A. Registrants shall carry proof of registration at all times when providing outfitting services.

B. When a ~~A R~~registrants' registration ~~that~~ is suspended or revoked, the registrant must ~~be~~ immediately return~~ed~~ all documentation of such registration to the Director.

2.2 Entity Registrations

A. Responsible Party

Entity registrants are required to designate a responsible party and agent for the registrant upon initial application and while maintaining the registration. § 12-55.5-105(4), C.R.S. The responsible party for the registrant shall be accountable for the operations of the registrant and shall responsible for answering all the screening questions on the application.

B. Personnel Providing Outfitting Services

Entity registrants shall identify all individuals on the initial application for registration who will or may provide outfitting services for the registrant, regardless of whether such individual is an employee or independent contractor.

2.23. ~~BUSINESS AND ENTITY~~ Registrant Names

A. ~~A R~~Registrants ~~providing or soliciting to provide outfitting services must~~ shall not offer, engage or perform, or offer to perform ~~O~~outfitting ~~S~~services using a ~~business~~ name that has not been provided to the Director.

B. If a registrant performs or offers to perform outfitting services under a trade name, such trade name~~The Business or Entity name~~ must be filed with the Colorado Secretary of State pursuant to ~~Section~~ § 7-71-101, C.R.S.~~;~~

~~-~~All ~~Business or assumed or trade~~ names under which a registrant performs or offers to perform outfitter services including business, assumed, or trade names) shall ~~must~~ be provided to the Director.~~; and~~

C. The name under which ~~the~~ a registrant performs or offers to perform ~~uses to provide~~ outfitting services ~~is~~ shall not be misleading about the services provided ~~to the public~~.

D. A ~~Business or assumed or trade~~ name shall be ~~s are~~ considered misleading if the name:

i. Implies the existence of a corporation by the use of words or abbreviations such as “Corporation,” “Incorporated,” “P.C.,” “Corp.,” or “Inc.,” if the ~~outfitter~~registrant is not incorporated or is not a professional corporation;~~.~~

ii. Implies the existence of a partnership by the use of a designation such as “Smith & Jones,” “Partnership,” “Ltd.,” “LP”, “LLP”, or “LLLP” if the registrant is not such an entity;~~.~~

iii. Implies the existence of a limited liability company by the use of abbreviations such as “Ltd.,” “L.L.C.,” “LLC,” or “LC” if the ~~outfitter~~registrant is not such an entity;~~.~~

iv. Contains any representation that would likely cause a reasonable person to be misled or confused about the legal entity type~~,~~ (*e.g.*, corporation, partnership, limited liability ~~C~~company, or sole proprietorship)~~,~~ or ~~about~~ its ownership;~~.~~

v. Contains any representation that would likely cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities;~~.~~

vi. Contains claims or guarantees about a specific outcome; or~~.~~

vii. Contains claims or implies the ability to influence a regulatory body or official.

2.43~~103~~. Applications f~~F~~or Registration~~.~~

A. Complete Applications.

To apply for issuance of an outfitter registration under § 12-55.5-105, C.R.S., a person must submit a complete application on a form approved by the Director. A complete application requires that an applicant submit the application, the required fee, and all required documentation as set forth in the application. Required documentation includes that which the applicant is responsible for submitting and any other documentation that may be required from other sources to support the applicant’s file. Any application not complying with these procedures shall be deemed incomplete and the applicant shall be so notified. Incomplete applications are kept on file for one year and then destroyed.

C. Training Equivalent to First Aid Card

As used in §§ 12-55.5-103.5(1) and 12-55.5-105(1)(b), C.R.S. and these rules, the Director considers any Wilderness First Aid, Wilderness First Responder, Emergency Medical Technician (EMT) – Basic, Intermediate, or Paramedic training or certification, Mountain oriented First Aid ——————— to constitute “equivalent training” to holding a first aid card or a first aid instructor’s

card issued by the American Red Cross. shall constitute evidence of such equivalent training.

D. Denial of an Application.

An applicant whose application has been denied may submit a request for reconsideration of a decision by the Director, accompanied by additional supporting documentation or information. These requests must be submitted within 60 days of the date on which the Director made the decision. No additional supporting documentation or requests for reconsideration will be considered by the Director if they are not filed within this time limit.

E. Applications are Reviewed under Current Statutes and Rules.

Applications are evaluated under the statutes, rules, and regulations in effect at the time that the application is complete.

~~2.4 Registrations issued to individuals are not transferable. If a registered individual sells or transfers an outfitting business, the new owner shall be required to submit a new application for registration. The current owner shall submit notification to the Office that the business was sold or transferred as part of the initial application for the new owner.~~**2.4 ADVERTISING OUTFITTING SERVICES VIA THE INTERNET**

~~A. Any Registrant offering to perform Outfitting Services via the Internet must include the following minimum information on the Internet site:~~

~~Name of the Registrant;~~

~~Mailing and physical address of the principal location where the Registrant offers and/or provides Outfitting Services;~~

~~Business telephone number; and~~

~~Colorado registration number.~~

CHAPTER 3
REGISTRATION MAINTENANCE AND REPORTING CHANGES

~~**2.5**~~

3.1. ~~Reporting Individual Name and Demographic Changes NOTICES FROM INDIVIDUAL REGISTRANTS~~

A. Address and ~~personal~~ Name Changes

i. ~~i. Outfitters~~ Registrants shall inform the ~~director~~Director of any name, address, telephone, or email change within 30 days of the change. The ~~director~~Director will not change the outfitters registration information without explicit notification in a manner ~~prescribed~~ approved by the D~~d~~irector.

ii. ~~ii.~~ The Director requires ~~O~~one of the following forms of documentation ~~is needed~~ to change a name or correct a social security number:

a. Marriage license;
b. Divorce decree;
c. Court order; ~~or~~
~~Ownership transfer documents;~~
~~c. Certificate of good standing, or~~
d. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the D~~d~~ivision~~. of registrations.~~

B. ~~–~~Trade ~~n~~Name and~~,~~ Doing Business As (DBA) ~~c~~Changes

i. Registrants shall report A~~a~~ny change ~~(including additions or deletions)~~ of a trade name or~~,~~ ~~DBA~~DBA ~~, etc. must be reported~~ to the Director within 30 days of the changing the name with the Secretary of State.

ii. Registrants shall ~~Proof the name change must be~~ verify the change~~ied~~ by submitting copies of the documents filed with the Secretary of State.

~~CHAPTER 3~~
~~ISSUANCE OF OUTFITTERS REGISTRATION FOR ENTITIES~~

~~3.13~~3.2. ~~Any entity may apply for registration by submitting an application and fee in the manner approved by the division of registrations director and must be registered prior to soliciting to provide or providing outfitting services under the entity name.~~

~~3.2 Registrations issued to entities are transferable.~~

~~3.3~~ Reporting Entity Changes ~~NOTICES FROM ENTITY REGISTRANTS~~

A. Address, Telephone or Email Changes

~~i.~~ ~~Each e~~EE~~E~~ntity registrants~~registrants~~ shall inform the ~~director~~Director of any name, address, telephone, or email change within 30 days of the change. The ~~director~~Director will not change any ~~entities'~~ information without explicit notification in a manner ~~prescribed~~ approved by the ~~director~~Director.

~~B.~~

B. Trade N~~n~~ame and~~,~~ Doing Business As (DBA) ~~c~~Changes

i. Registrants shall report ~~A~~any change ~~(including deletions or additions)~~ of a trade name or ~~,~~ DBA ~~, etc. must be reported~~ to the Director within 30 days of the changing the name with the Secretary of State.

Registrants shall verify ~~**Certificate of good standing, or**~~

ii. ~~Proof~~ any ~~the~~ name change ~~must be verified~~ by submitting a copy of the certificate of good standing or copies of the documents filed with the Secretary of State.

C. Business Management or Ownership Changes~~Ownership Changes~~

i. Registrants shall report ~~A~~any change in ownership or management of an entity registrant ~~must be reported~~ to the Director within 30 days of the change. A change in ownership or management includes a change in the manager of a limited liability company, any change of the directors of a corporation, and any change of the partners in a partnership.

ii. Any sale or transfer of an outfitting business will not include sale or transfer of the registration number assigned to the outfitter.

iii. Following the sale, transfer, or dissolution of a registered entity, the responsible party must provide written notification and verification of the sale, transfer, or dissolution.

Following the sale or transfer of a registered entity, the new owner shall be responsible for applying to register the business by filing an application in a form approved by the Director.~~Proof of the business sale.~~

iv.

D. Responsible Party Changes

i. ~~i.~~ Any change to a responsible party requires the submittal of an application in a manner approved by the ~~division of registrations director~~Director.

ii. ~~ii.~~ Pursuant to ~~C.R.S.~~ § 12-55.5-105(4), C.R.S., Registrants shall report changes ~~to~~ of the responsible party to the Director ~~must be reported~~ within ~~ten~~10 working days.~~.~~

The r

iii. ~~iii.~~ ~~R~~esponsible party for a registrant~~ies~~ may not change without explicit consent of the current responsible party identified in the entity record on file with the Division.

E. Change in Personnel Providing Guide or Outfitting Services

Entity registrants shall notify the Director of any changes to officers and/or personnel providing outfitting services on behalf of the registrant.

F. Individual to Entity Registrants

A registered natural person who organizes an entity to offer or offer to perform outfitting services must file an application in a form approved by the Director to register the entity and obtain a new outfitter registration number. An individual outfitter registration number is not transferable to an entity.

~~**3.3. PREVIOUS REGISTRATIONS**~~

~~A. Registrations currently issued to a natural person will require a business name under which the Outfitter is providing service and each Outfitter will have until DATE to report and provide a Certificate of Assumed or Trade Name to the Director. Failure to report the business names may result in disciplinary action.~~

~~B. Natural person Registrants wishing to change to an entity registration must file a new application and will receive a new registration number.~~

~~3.4. **REGISTATION NUMBERS NOT TRANSFERABLE**~~

~~A. Registration numbers are not transferable with a change in legal structure.~~

~~B. Any sale or transfer of an Outfitting business will not include the registration number assigned to a prior Outfitter.~~

C. If a registered individual sells or transfers an outfitting business, the current owner must provide notification and verification to the Director that the business was sold, transferred, or dissolved.

D. The new owner is responsible for registering the new business by filing a new application with the Director. The new owner must also provide verification of the sale, transfer or dissolution as part of the initial application for the new owner.

~~CHAPTER 4~~
~~RENEWAL AND REINSTATEMENT OF OUTFITTER REGISTRATIONS~~

~~4.1~~3.~~5~~3. Renewal of an Active Registration~~NOTICES TO REGISTRANTS~~

A. ~~A.~~ All active registrations expire and must be renewed ~~The director sends notices for renewal of individual or entity registrations according to a schedule established and~~ in a manner approved by the ~~division of registrations~~Director ~~-~~pursuant to ~~C.R.S.~~ § 24-34-102, C.R.S.~~(8)~~ in order to maintain an active registration. ~~Renewal notices are mailed to the last address furnished to the director.~~

B. As a condition of ~~R~~renewal, a registrant shall attest that ~~he~~ the registrant has complied with the statutory and rule requirements ~~of~~ to hold a valid first aid card or the equivalent training, submit a surety bond, and possess the required minimum liability insurance. The Director may audit attestations any time after the renewal.

~~There is a 60-day grace period from the expiration date of the registration within which to pay the renewal fee, plus a late fee.~~

C. ~~C~~B. Failing to renew a~~the~~ registration will result in expiration of the registration. The registrant must ~~expiring and it must be~~ reinstate the registration as set forth in statute and these rules~~d should the Outfitter wish~~ to continue providing or offering to provide ~~O~~outfitting services. ~~Failure to receive a renewal notice does not relieve the individual or entity registrant of the obligation to pay the renewal fee and submit appropriate documentation in support of the renewal application.~~ BdV: add prior to continuing to provide or offering to provide or providing service.

D. ~~D.~~ ~~s~~

~~4.2~~3.~~46~~. Expired Registrations

A. ~~A.~~ A r~~R~~egistration that is not renewed on or before the expiration date ~~will~~ shall expire; however, there is a 60-day "grace period" from the expiration date within which the ~~R~~registration may be renewed, subject to a late fee. A ~~R~~registrant will not be disciplined for providing or ~~soliciting~~ offering to provide outfitting services with an ~~E~~expired r~~R~~egistration during the grace period if the ~~R~~registration is renewed during the grace period.

After the 60-day grace period, any registrant whose registration has expired ~~cannot~~ is prohibited from performing or offering to perform outfitting ~~services~~solicit or providing outfitting services as required in ~~Section 12-55.5-105 (1) (d), C.R.S.~~ and such Registrant is subject to disciplinary action.

B.

C. Failure to receive a renewal notice does not relieve a ~~R~~registrant of the obligation ~~to pay and~~ renew the registration.

~~An Expired Registration may be reinstated to Active status as provided in Rule 3.8 below.~~

3.5~~7~~. ~~Reinstatement of an Expired Registration~~

~~The purpose of this rule is to establish the qualifications and procedures for reinstatement of an expired registration, pursuant to C.R.S. §§ 12-55.5-105(5) and 24-34-105, C.R.S.~~

~~A. Conditions of Reinstatement for an Expired Registration:~~

~~i.~~ An ~~n~~ applicant seeking to reinstate ~~ment of~~ an expired registration shall complete an ~~reinstatement~~ application in a form approved by the Director, pay a ~~reinstatement~~ fee, and submit proof of:

i. Having a valid ~~having~~ first aid card, first aid instructor's card, or equivalent training;

ii. Minimum ~~,~~ liability insurance, and

iii. S~~s~~urety bond.~~; and,~~

B~~ii~~. ~~An applicant for reinstatement who has engaged in activities as an outfitter or advertised in any publication or represented themselves himself or itself as an outfitter in Colorado with an expired registration in violation of C.R.S. § 12-55.5-103 is subject to denial of the application, disciplinary action, and/or other penalties as authorized by C.R.S. Title 12, Article 55.5 and in accordance with C.R.S. § 24-34-102, *et seq*.~~

~~iii.~~ If ~~the~~ an applicant to reinstate a registration engaged in activities as an outfitter in another state, the Director may require verification of registration as an outfitter in good standing ~~may be requested~~in such other state.

3.8~~6~~. ~~Surety Bond and Insurance Coverage~~

A. ~~All~~ Registrants may not ~~offer,~~ perform or offer to perform ~~or provide~~ outfitting services unless the r~~R~~egistrant first posts and maintains~~, or is covered by~~ a surety bond in the amount of a least $10,000 and maintains liability insurance coverage in the amount of $50,000(one individual in a single accident) and $100,000 (all individuals in a single accident)~~.~~.

B. ~~Each~~ Registrants are ~~is~~ responsible for maintaining a surety bond and liability insurance coverage ~~for the duration of the~~ at all times the ~~R~~registrant is registered ~~and actively engaged in outfitting services~~. ~~The~~ A registrant may

change surety bond or insurance providers, but there shall be no gap in bonding or insurance coverage.

C. Any failure to maintain or be covered by a complying surety bond or insurance policy shall be ground for discipline under § 12-55.5-106 (1)(c) and (d), C.R.S.

3.~~9~~7. First Aid, Bond or Insurance Cancellation

~~Should~~ A registrant whose first aid or equivlanet training~~verification~~training, surety bond, or liability insurance has been canceled or expired during the registration period is ~~, the outfitter is no longer~~ not in compliance with the registration requirements, and the registrant shall not perform or offer to perform outfitting services ~~cannot be provided or solicited~~ until the ~~outfitter~~ registrant provides to the Director proof of a valid first aid card, updated surety bond, or minimum liability insurance coverage pursuant to § 12-55.5-106 (1)(c) and (d), C.R.S.

CHAPTER 45
OUTFITTER RESPONSIBILITIES, PROFESSIONAL CONDUCT AND PROHIBITED CONDUCT

45.1.1. Responsibilities and Professional Conduct

A. A registrant shall bBe responsible for the acts of all employees, contracted personnel, orand authorized booking agents when those individualspersons are acting within the scope of their employment, contract, agreement, or at the registrantoutfitter's direction, or under the registrant's supervision.

B. A registrant shall Operate with respect for the legal rights of others, on private and public property, endeavor to promote and practice good stewardship of the natural resources, and provide outfitting services on public lands in a manner such that they do not interfere with general public access to public land or access to wildlife on public land.

C. A registrant shall Ppromptly refund deposits paid by clients upon request if such deposits are due to the a client in accordance with the outfitter's written refund policy or any other written agreements;

D. A registrant shall Hhonor the terms of the contractual obligations to all clients. If the outfitter registrant is unable to honor the terms of a client the contract for any reason, each the registrant client shall be notified immediately notify the client.

E. A registrant shall ensure that each client has the necessary permits, stamps, and licenses prior to hunting or fishing when the registrant identifies this as a service they expect to provide. .

F. A registrant shall inform clients, employees, contracted personnel, or others who act on behalf of the registrant of all applicable local, state, and federal laws related to land management and fish and game laws and maintain proof of such notification.

G. A registrant shall clearly indicate to clients the boundaries of the property they will be hunting or fishing, and inform clients of any special restrictions with conducting their hunt or fishing.

H. A registrant shall Pprovide any animal (live stock?)used in the conduct of business providing outfitting services with proper food, drinkwater, and shelter and not subject any animal to abuse or cruel and inhumane treatment as provided by Colorado Llaw.

I. A registrant shall Nnot submit make any substantially false statements or fail to disclose any substantial facts requested in connection with an application or any communication filed with the Director.

J. A registrant shall Nnot make guarantees as to the successful taking of fish or wildlife.

K. A registrant shall accurately represent its ~~Not misrepresent their~~ facilities, prices, equipment, services or hunting or fishing opportunities.~~;~~

L. A registrant shall ~~N~~not conduct any outfitting services on private or public land, except legal transportation across such lands, without first having obtained written permission from the landowner or written authorization from the agency administering the public land.~~;~~

M. A registrant shall ~~N~~not condone or willfully allow violations or attempted violations ~~to occur with~~ of state and federal statutes or rules ~~agencies~~ related to trespass, land use, wildlife, or cruelty to animals by employees, independent contractors, or clients.

A registrant shall

~~a.~~ ~~At all times~~ make all attempts to provide for the safety of clients and personnel at all times, and shall not willfully threaten the safety of the public, clients and employees~~;~~.

N.

O. A registrant shall ~~F~~fully cooperate with private landowners and public land management agencies and shall adhere to the laws~~,~~; rules and regulations of the Director~~,~~; Department of Natural Resources ~~(DNR)~~, including ~~to include~~ Colorado Parks and Wildlife ~~(CPW),~~; United States Forest Service ~~(USFS),~~; National Park Service ~~(NPS),~~; Bureau of Land Management ~~(BLM),~~; State Land Office~~,~~; and any other government agency that has authority over ~~O~~outfitters or ~~the~~ outfitting services.~~;~~ BdV: Add US Fish and Wildlife service (USFWS)

A registrant shall ~~Outfitters shall advise~~ notify ~~clients, employees, and contracted personnel of applicable local, state, and federal laws related to land management including licensing requirements and wildlife and shall not condone their violation.~~

~~5.2 An outfitter shall at all times provide for the safety of clients and personnel, and shall not threaten the safety of the public.~~

P. ~~a~~or his or her designee or .

Q. A registrant shall ~~P~~promptly report any known or observed ~~-~~violation of federal or state law or regulation governing wildlife, game, or fish ~~observed or known to him,~~ to an appropriate law enforcement officer.

4.2. Cooperation with Investigations

Registrants having knowledge of, or involvement in, any alleged violation of any provision of Article 55.5 of Title 12, C.R.S.; Article 6 of Title 33, C.R.S.; these rules; or any alleged conduct for which disciplinary action would be warranted under § 12-55.5-106(1), C.R.S. shall cooperate with any investigation initiated by the Director and furnish such information, assistance, and documentation as may be requested.

4.3. Advertising Outfitting Services

A. General

In any advertisement offering to provide outfitting services, a registrant shall accurately represent its facilities, prices, equipment, services and hunting or fishing opportunities. A registrant shall not engage in fraud, deceit, misrepresentation, or concealment of any material fact in advertising, soliciting, or in providing outfitting services to the public.

B. Advertising via the Internet.

Any registrant offering to perform outfitting services via the internet must include the following minimum information on the internet site:

i. Name of the registrant;

ii. Mailing and physical address of the principal location where the registrant offers and/or provides outfitting services;

iii. Registrant's business telephone number; and

iv. Registrant's Colorado outfitter registration number.

4.24. Emergency Guide Replacement

A. Pursuant to ~~C.R.S.~~ § 12-55.5-106(1)(j), C.R.S., ~~an~~ ~~outfitter~~ registrant ~~may~~ shall not be subject to disciplinary action for hir~~e~~ing an individual who does not meet the requirements of ~~C.R.S.~~ § 12-55.5-103.5, C.R.S. in an "emergency" situation." The Director shall consider that ~~A~~an emergency situation ~~arises~~ exists only when, due to circumstances beyond a registrant's~~n outfitter's~~ control, a ~~n existing~~ guide becomes unable to provide services to a client with less than 7 days before~~for~~ a scheduled hunt. In such a situation, the ~~outfitter~~ registrant may employ an individual who does not have a valid first aid card, first aid instructor's card, or equivalent training. Any individual hired as a guide in an emergency situation ~~must~~ shall be at least 18 years old. A registrant ~~n~~ ~~outfitter~~ may employ an individual who does not possess~~without~~ a first aid card, first aid instructor's card, or equivalent training to serve as a guide for either 10 calendar days or for one hunting or fishing excursion, whichever is less.

B. When an emergency situation arises, the ~~outfitter~~ registrant must notify the client, in writing. The registrant ~~outfitter~~ and the client shall sign and date the written notification. The ~~outfitter~~registrant shall maintain a copy of the signed ~~provide a copy of the~~ written notification and provide a copy to the client ~~and~~

~~keep a copy of this document pursuant to §12-55.5-107(3), C.R.S~~. The written notification shall state the following, at a minimum:

i. ~~A.~~ The nature of the emergency;
ii. ~~B.~~ The individual who will be guiding the client; and
iii. ~~C.~~ That the replacement individual fails to meet the requirements ~~C.R.S.~~ § 12-55.5-103.5, C.R.S.

CHAPTER 5
SPECIFIC REQUIREMENTS FOR OUTFITTING SERVICES

55.3.1. Field Safety Kit

A registrantn outfitter, guide, or contracted personnel leading a member of the public in the field shall maintain and carry a A safety kit containing appropriate supplies to provide immediate and necessary first aid shall be carried by each outfitter and guide while in the field with clients appropriatesuitable for the services provided. Such kit aAt a minimum, such kit must contain adhesive bandages, sterile pads, flexible gauze bandages, first aid tape, and antiseptic to dress a minor cut or injury.A more extensive kit shall be available at each camp which contains additional supplies to provide first aid necessary until the injured party can be moved to a medical facility.

5.2. Camp Safety Kit

A RRegistrants isare responsible for keeping and maintaining a more extensive safety kit at each camp which contains appropriate supplies to provide first aid necessary until the injured individual can be moved to a medical facility. The camp safety kit must be of a size appropriate for the number of guests at the camp.Such kit a At a minimum, such kit must contain adhesive bandages in varying sizes, sterile pads, flexible gauze bandages, first aid tape, and antiseptic suitable to dress a large wound or injury.

55.4.3. Equipment

A. An Registrants outfitter shall provide safe, serviceable, and sufficient equipment in good working condition (*e.g.*, without tears) for its intended use. The equipment provided shall be clean, without tears, and adequate to provide the services for which the outfitter contracted.

B. Registrants shall make all Such equipment shall be made available for inspection upon request of the directorDirector or another authorized agent to effectuate §12-55.5-110, C.R.S. .

C. This rule shall not apply to aif client's(s) personal equipment that the client chooses to provides and use during otheir own personal equipment during Outfitting services. A client's provision of his or her own equipment shall not relieve the registrant from any obligations under this rule.

5

5.5.4. HOUSING OR CAMPING FACILITIES

An Registrant outfitter shall maintain safe and clean housing or camping facilities where services are provided, which shall include compliance with local, county, state, and federal land use and posting regulations.

OR

A Registrants shall maintain neatsafe, orderly, and sanitary housing or camps facilities at all times and shall provide clean, fresh drinking water, protect all food from contamination, and dispose of all garbage, debris, and human waste properly. Housing or camp facilities shall comply with federal, state, and local land use and

posting regulations. Livestock facilities shall be separate from camp facilities. Streams shall be protected from contamination.

~~5. 6 An outfitter shall not misrepresent rates, services, or accommodations. An outfitter shall not employ false or misleading statements or advertisement materials.~~

~~5.7 An outfitter shall honor the terms of the contractual obligations to all clients. If the outfitter is unable to honor the terms of the contract for any reason, each client shall be notified immediately.~~

~~5.8 An outfitter is responsible for the acts of all employees, contracted personnel and authorized booking agents when those individuals are acting within the scope of their employment, contract, agreement, or at the outfitter's direction or supervision.~~

~~5.9~~

~~RECORDS MANAGEMENT~~

~~In accordance with C.R.S. §12-55.5-107(3) an outfitter shall maintain accurate and complete records of all outfitting services and shall provide such records to the director or authorized agents upon request. Records shall include:~~

~~A. Names and addresses of clients;~~

~~B. Dates services were provided;~~
~~C. Names and addresses of employees and contracted personnel;~~

~~D. Copies of employee or contracted personnel first aid cards or the equivalent, in accordance with C.R.S. §12-55.5-108(2);~~

~~E. Documentation that clients, employees and contracted personnel have been advised of applicable laws required by rule 5.1;~~

~~F. Documentation of insurance coverage and bond;~~

~~G. Contracts or agreements with authorized booking agents;~~

~~H. Contracts with each client; and~~

~~I. Other records required by law.~~

~~5.11 Should first aid verification, bond or insurance be canceled or expire during the registration period, the outfitter is no longer in compliance with the registration requirements, and outfitting services cannot be provided or solicited until the outfitter provides updated bond or insurance coverage.~~

~~5.12 An outfitter shall not employ or contract with any individual whose outfitter registration is revoked or suspended to:~~

~~A. Provide guide services as defined in C.R.S. §12-55.5-102(4);~~

B. Provide outfitting services as defined in C.R.S. §12-55.5-102(5.5);

C. Act, behave like, pose as, impersonate, appear or seem to be, or function as a substitute for the outfitter; or,

D. Represent, stand for, symbolize, serve as the official and authorized delegate or agent for, act as a spokesman for, or act the part or role of the outfitter.

5.13 Pursuant to C.R.S. §12-55.5-106(1)(j), an outfitter may hire an individual who does not meet the requirements of C.R.S. §12-55.5-103.5 in an "emergency" situation. An emergency situation arises only when, due to circumstances beyond an outfitter's control, an existing guide becomes unable to provide services to a client for a scheduled hunt. In such a situation, the outfitter may employ an individual who does not have a first aid card. Any individual hired as a guide in an emergency situation must be at least 18 years old. An outfitter may employ an individual without a first aid card to serve as a guide for either 10 days or for one excursion, whichever is less. When an emergency arises, the outfitter must notify the client, in writing. The outfitter and the client shall sign and date the written notification. The outfitter shall provide a copy of the written notification to the client and keep a copy of this document pursuant to C.R.S. §12-55.5-107(3) and rule 5.10. The written notification shall state the following:

A. The nature of the emergency;

B. The individual who will be guiding the client; and

C. That the individual fails to meet the requirements C.R.S. §12-55.5-103.5.

CHAPTER 6
RECORDS MANAGEMENT & CONTRACT REQUIREMENTS

6.1. Records Management

In accordance with § 12-55.5-107(3). C.R.S., ~~an outfitter~~ registrants shall maintain accurate and complete records of all outfitting services and shall provide such records or logs to the ~~director~~Director or authorized agents upon request. Outfitting service~~s~~r records shall include ~~a minimum of~~ the following, at a minimum:

A. ~~A.~~ Names and addresses of clients;
B. ~~B.~~ Dates services were provided;
C. ~~C.~~ Game Management Unit (GMU) authorizations
D. Documentation that clients, employees and contracted personnel have been advised of applicable laws;
E. ~~F.~~ Documentation of insurance coverage and bond;
F. ~~G.~~ Applicable ~~C~~contracts or agreements with contracted personnel and authorized booking agents;
G. ~~H.~~ Contracts with each client;
H. ~~I.~~ Log books containing any client information, including license and permit numbers, and harvest information; and~~,~~
I. ~~I.~~ Other records required by law.

In the rules, look at the word willful conduct to remove it from the rules or define it if keeping in the rules.

6.2. ~~Record Retention PERIOD~~

Pursuant § 12-55.5-107~~8~~(3), C.R.S, ~~and Outfitter~~ registrants shall maintain all applicable documents for the current year and the preceding 4 years. The Director construes "~~A~~applicable documents" ~~and records~~ to mean any ~~business~~, employment, or client records or logs created and maintained by the r~~R~~egistrant ~~must be kept for 5 years from the date the record was created. After the 5 years, the Registrant must properly and in a secure manner destroy any record in their possession~~.

6.3. Client Contracts ~~(FISHING AND HUNTING)~~

A. ~~In addition to the contract requirements of §12-55.5-109, C.R.S., the following requirements apply:~~

~~A r~~Registrant~~sered outfitter~~ shall~~must~~ provide a written contract to all clients for outfitting services. In addition to the contract requirements of § 12-55.5-109, C.R.S., ~~T~~the contract with each client must contain a minimum of the following:

i. ~~i.~~ The name of the outfitter, the entity name, business name or trade name;
ii. ~~ii.~~ The physical location of the business;
iii. ~~iii.~~ Contact information of the business;
iv. ~~iv.~~ The outfitter registration number;

v. A refund policy which defines the refund policy when the prospective client does not draw the required license or tag for the species the client is negotiating to hunt; and

v.

vi. Specify tThe location or locations of the actual hunt using game management units assigned by Colorado Parks and Wildlife or another description that properly identifies the location(s) or area(s) where the services are to be provided;

vi.

The name of the surety bond company;

vii.

The name of the insurance company;

viii.

ix. viii. A statement indicating that proof of bond and insurance is available upon request.

x. ix. A statement indicated that Ooutfitters are regulated by the Department opf Regulatory Agencies (DORA).

B. B. A copy of Tthe contract, signed by the registrant and all clients, must shall be provided to all clients within 30 days of the outfitter's registrant's receipt and acceptance of a deposit from the client.

C. Any deposit made by a client whom the outfitter registrant does not accept must be returned to the client within 30 days of the registrant's decision not to accept.

C. A registrant that provides a single day hunting or fishing trip shall comply requires a contract that contains with the minimum contract requirements set forth in § 12-55.5-109(1), (2) and (3), C.R.S. and theseis rules.

D.

E. A registrant shall provide D. Aa copy of the contract shall be provided to the directorDirector or their his or her designee upon request.

CHAPTER 7
DISCLOSURES AND REPORTING REQUIREMENTS

~~7~~5.1.4 Disclosures: Reporting Convictions, Judgments and Administrative Proceedings for Individuals and Entities

A. ~~Outfitters~~ Registrants shall notify the ~~director~~Director within 45 days of any of the following events:

i. ~~i.~~ The outfitter's or responsible party's conviction of a felony under the laws of any state or of the United States, which would be grounds for discipline under ~~C.R.S.~~ § 12-55.5-106, C.R.S. A guilty verdict, a plea of guilty, or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;

ii. ~~ii.~~ A disciplinary action imposed upon the outfitter or responsible party~~by~~ another jurisdiction that licenses or registers outfitters, which would be a violation of ~~C.R.S.~~ § 12-55.5-106, C.R.S., including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license or registration whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license or registration fee by the due date;

~~iii. Revocation or suspension by another state, municipality, federal or state agency who oversees outfitters and guides;~~

iii. ~~iv.~~ Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the outfitter related to the practice of outfitting.

B. The notice to the ~~director~~Director shall include the following information;

i. If the event is an action by a federal, state, or local governmental agency ~~(as described in ii or iii above)~~, the name of the agency, its jurisdiction, the case name, and the docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order or decision;

ii. If the event is a felony conviction, the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. The outfitter shall also provide to the ~~director~~Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with forty-five days of such action;

iii. If the event concerns a civil action or arbitration proceeding, the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the

court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal;

C. The ~~outfitter~~ registrant ~~notifying the director~~ may submit a written statement ~~with~~ in addition to the notice to be included with the ~~outfitter~~ registrants records.

7.2. ~~-~~Reporting Activation of a Surety Bond

A. Each r~~R~~egistrant is required to notify the Director in writing within 45 days of a surety bond activation. Such written notice shall include all of the following items listed below:

i. Name and registration number of ~~Outfitter~~registrant;

ii. Bond ~~P~~policy number;

iii. Number of ~~C~~clients impacted;

iv. Dollar amount; and

v. Other items that the Director deems necessary.

~~CHAPTER 6~~
~~ADVISORY COMMITTEE~~

~~**6.1 The director shall appoint an advisory committee of five members. The advisory committee will consist of not less than three registered or retired outfitters and not more than two non-registered individuals who may be individuals involved with land or wildlife management, or a member of the general public.**~~

~~**6.2 When reasonably practical, the registered outfitter members of the advisory committee shall include both fishing and hunting outfitters and each may have been practicing as a registered outfitter.**~~

~~**6.3 Each member shall serve a four year term. No member shall serve more than two full consecutive terms.**~~

~~**6.4 The director may remove any advisory committee member for cause. Any member may resign at any time by filing a written notice with the director. Upon receipt of a resignation, the director may appoint an individual to serve the remainder of the unexpired term.**~~

~~**6.5 The members shall be responsible to make recommendations concerning outfitting or outfitters to the director. Such recommendations are subject to the final approval by the director.**~~

~~**6.6 The advisory committee shall meet upon the request of the director at such times as are deemed necessary to conduct the business of the Office.**~~

~~**6.7 While serving as an advisory committee member for the Office, a member cannot serve as an active officer in a leadership role at the state level with an industry-related association as determined by the director.**~~

CHAPTER 7
CONTRACT GUIDELINES

7.1 CONTRACTS FOR HUNTING OR FISHING CLIENTS

A. In addition to the contract requirements of C.R.S. §12-55.5-109, C.R.S., the following requirements apply:

Aa registered outfitter must provide a written contract to all clients for outfitting services. The contract with each client must contain a minimum of the following:

i. The name of the outfitter, the entity name, business name or trade name;

ii. The physical location of the business;

iii. Contact information of the business;

iv. The outfitter registration number;

v. A refund policy which defines the refund policy when the prospective client does not draw the required license or tag for the species the client is negotiating to hunt; and

vi. Specify the location or locations of the actual hunt using game management units assigned by Colorado Parks and Wildlife or another description that properly identifies the location where the services are to be provided.

vii. The name of the bond and insurance company.

viii. A statement indicating that proof of bond and insurance is available upon request.

ix. A statement indicated that Outfitters are regulated by the Department pf Regulatory Agencies (DORA).

B. The contract must be provided to all clients within 30 days of the outfitter's receipt and acceptance of a deposit from the client. Any deposit made by a client who the outfitter does not accept must be returned within 30 days of the decision not to accept.

C. A single day hunting or fishing trip requires a contract that contains the minimum requirements in C.R.S. §12-55.5-109(1), (2) and (3) and this rule.

D. A copy of the contract shall be provided to the director or authorized agent upon request.

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CHAPTER 89
ADVISORY COMMITTEE

The purpose of this rule chapter to clarify the terms and scope of the five members of the advisory committee established required pursuant to § 12-55.5-111, C.R.S.

9.8.1. The directorDirector shall appoint an advisory committee to consist of five members. The advisory committee membership shall consist of the following:

A. At least three individuals each of whom is a registrant or responsible party for an entity registrant and who personally provides outfitting servicesregistered outfitter. s,
i.To qualify for appointment to the advisory committee, individuals:

i. The outfitter members mMay be required to provide proof of experience (fishing or big game hunting) for the past five 5 years preceding from the date of the application;

ii. ii. SShall not have had any pending or prior disciplinary action against his or her registration within the last 5 years preceding from the date of the application; and;

iii. iii. SShall not serve as an active officer or in a leadership role at the state level with an industry or professionoutfitting-related association at the time of application and while serving as an advisory committee member.

B. One member shall be an individual who is involved with land or wildlife management, and

C. One member shall be individual who is a member of the general public.

9.8.2. Advisory committee Mmembers serve at the request and pleasure of the Director. The Director shall set the term limits.

9.8.3. The directorDirector may remove any advisory committee member for cause as the Director deems appropriate.

9.8.4. Any advisory committee member may resign at any time by filing a written resignation notice with the Director. Upon receipt of the notice, the Director may appoint an individual to serve the remainder of the unexpired term.

9.8.5. Advisory committee Mmembers are responsible for providing recommendations to the Director concerning regulation of outfitting services or outfitters in Colorado to the Director. Such recommendations are subject to the final approval byof the Director.

CHAPTER 9
PETITIONS FOR DECLARATORY ORDER

9.1. Any person may petition the Director for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any statutory provision or of any rule or order of the Director.

9.2. The Director will determine, in his or her discretion and without notice to petitioner, whether to rule upon any such a petition. The Director shall promptly notify the petitioner of his or her action and state the reasons for such action.

9.3. In determining whether to rule upon a petition filed pursuant to this rule, the Director will consider the following matters, among others:

A. Whether a ruling on the petition will terminate a controversy or remove uncertainties.

B. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more of the petitioners.

C. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court but not involving any petitioner.

D. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.

E. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado Rules of Civil Procedure, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.

9.4. Any petition filed pursuant to this rule shall set forth the following:

A. The name and address of the petitioner and whether the petitioner is registered pursuant to § 12-55.5-105, C.R.S.

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

C. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner.

9.5. If the Director determines that he or she will rule on the petition, the following procedure shall apply:

A. The Director may rule upon the petition based solely upon the facts presented in the petition. In such a case:

i. Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.

ii. The Director may order the petitioner to file a written brief, memorandum or statement of position.

iii. The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.

iv. The Director may dispose of the petition on the sole basis of the matters set forth in the petition.

v. The Director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.

vi. The Director may take administrative notice of facts pursuant to the State Administrative Procedure Act and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.

vii. If the Director rules upon the petition without a hearing, the Director shall promptly notify the petitioner of the decision.

B. The Director may, in his or her sole discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner setting such hearing shall set forth, to the extent known, the factual or other matters into which the Director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Director to consider.

9.6. The parties to any proceeding pursuant to this rule shall be the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene shall set forth the same matters as required by Rule 9.4. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the Director.

9.7. Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute final agency action subject to judicial review pursuant to § 24-4-106, C.R.S.

~~**CHAPTER 8**~~
~~**DECLARATORY ORDERS**~~

~~**8.1 Any person may petition the director for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any statutory provision or of any rule or order of the director.**~~

~~8.2 The director will determine, in their discretion and without notice to petitioner, whether to rule upon any such a petition. The director shall promptly notify the petitioner of their action and state the reasons for such action.~~

~~8.3 In determining whether to rule upon a petition filed pursuant to this rule, the director will consider the following matters, among others:~~

A. Whether a ruling on the petition will terminate a controversy or remove uncertainties.

B. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the director or a court involving one or more of the petitioners.

C. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the director or a court but not involving any petitioner.

D. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.

E. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado Rules of Civil Procedure, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.

8.4 Any petition filed pursuant to this rule shall set forth the following:

A. The name and address of the petitioner and whether the petitioner is registered pursuant to C.R.S. § 12-55.5-105.

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

C. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner.

8.5 If the director determines that they will rule on the petition, the following procedure shall apply:

A. The director may rule upon the petition based solely upon the facts presented in the petition. In such a case:

i. Any ruling of the director will apply only to the extent of the facts presented in the petition and any amendment to the petition.

ii. The director may order the petitioner to file a written brief, memorandum or statement of position.

iii. The director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.

iv. The director may dispose of the petition on the sole basis of the matters set forth in the petition.

v. The director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.

vi. The director may take administrative notice of facts pursuant to the State Administrative Procedure Act and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.

vii. If the director rules upon the petition without a hearing, the director shall promptly notify the petitioner of the decision.

B. The director may, in their discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner setting such hearing shall set forth, to the extent known, the factual or other matters into which the director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the director to consider.

8.6 The parties to any proceeding pursuant to this rule shall be the director and the petitioner. Any other person may seek leave of the director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the director. A petition to

~~intervene shall set forth the same matters as required by section 8.4 of this chapter. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the director.~~

~~8.7 Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute final agency action subject to judicial review pursuant to C.R.S. § 24-4-106.~~

2016 Outfitter Rule Making

Statement of Basis: The statutory basis for the review and promulgation of the proposed changes to existing rules is §§24-4-103, and 12-55.5-104(1)(a), C.R.S.

Statement of Purpose: The purpose for review of the existing rules is to complete the implementation of House Bill 14-1180 Concerning the Sunset Review of Outfitters for Taking of Wildlife by the Director of the Division of Professions and Occupations, and, Implementing the Recommendations Contained in the Sunset Report Prepared by the Department of Regulatory agencies.

These rules are promulgated in order to carry out the powers and duties of the Director of the Division of Professions and Occupations, Department of Regulatory Agencies pursuant to Article 55.5 of Title 12, C.R.S.

The purpose is also to determine if each rule promotes a balanced and sensible approach to regulation that protects the public interest while supporting economic growth for the regulation of Outfitters. The review also ensures that each rule is still applicable given the Governor Hickenlooper's initiative of effective, efficient and elegant government.

Rules: See redline of the proposed changes.

Notice of Proposed Rulemaking

Tracking number

2016-00563

Department

700 - Department of Regulatory Agencies

Agency

735 - Division of Professions and Occupations - Office Of Athletic Trainer Registration

CCR number

4 CCR 735-1

Rule title

ATHLETIC TRAINER REGISTRATION RULES

Rulemaking Hearing

Date

12/06/2016

Time

01:00 PM

Location

1560 Broadway, Room 110D, Denver, CO 80202

Subjects and issues involved

Rule 10, Duty to Self-Report Certain Medical Conditions, provides additional guidance regarding the duty to report certain medical conditions and eligibility for entering into a Confidential Agreement with the Director of the Division of Professions and Occupations for registered Athletic Trainers.

Statutory authority

Section 12-29.7-113, C.R.S.

Contact information

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DEPARTMENT OF REGULATORY AGENCIES

Division of Professions and Occupations

Office of Athletic Trainer Registration Rules

4 CCR 735-1

RULE 10

DUTY TO SELF-REPORT CERTAIN MEDICAL CONDITIONS

The purpose of this rule is to provide additional guidance regarding the duty to report certain medical conditions and eligibility for entering into a Confidential Agreement with the Director as set forth in § 12-29.7-113, C.R.S.

A. No later than 30 days from the date a physical or mental illness or condition that affects a registrant's ability to perform athletic training services with reasonable skill and safety, the registrant shall provide the Director, in writing, the following information:

1. The diagnosis and a description of the illness or condition;

2. The date that the illness or condition was first diagnosed;

3. The name of the current treatment provider and documentation from the current treatment provider confirming the diagnosis, date of onset, and treatment plan; and

4. A description of the athletic trainer's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the illness or condition.

B. The registrant shall notify the Director of any worsening of the illness or condition, or any significant change in the illness or condition that affects the registrant's ability to practice with reasonable skill and safety, within 30 days of the change of the illness or condition. The registrant shall provide to the Director, in writing, the following information:

1. The name of the current treatment provider, documentation from the current treatment provider confirming the change of the illness or condition, the date that the illness or condition changed, the nature of the change of the illness or condition, and the current treatment plan; and

2. A description of the registrant's practice, and any modifications, limitations, or restrictions to that practice that have been made as a result of the change of condition.

C. Compliance with this rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Director pursuant to Section 12-29.7-113, C.R.S. However, mere compliance with this rule does not require the Director to enter into a Confidential Agreement. Rather, the Director will evaluate all facts and circumstances to determine whether a Confidential Agreement is appropriate.

D. If the Director discovers that a registrant has a mental or physical illness or condition that affects the registrant's ability to practice with reasonable skill and safety, and the registrant has not timely notified the Director of such illness or condition, the registrant may be subject to disciplinary action pursuant to Section 12-29.7-113, C.R.S.

Notice of Proposed Rulemaking

Tracking number

2016-00571

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

12/13/2016

Time

10:30 AM

Location

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

Subjects and issues involved

The purpose of this rulemaking is 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 in conformity with Executive Order D 2012-002.

Statutory authority

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

Contact information

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*Editing comments: Changes to this rule are indicated in **~~bold strikethrough~~** for removal and **BOLD, SMALL CAP, DOUBLE UNDERLINE** for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.*

DEPARTMENT OF AGRICULTURE

State Board of Stock Inspection Commissioners

RULES PERTAINING TO THE FEEDLOT CERTIFICATION ACT

8 CCR 1205-4

~~**STATEMENT OF BASIS AND PURPOSE**~~

~~**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.**~~

PART 1.~~00~~ Definitions

~~**A**~~1.1. "Act" means the Feedlot Certification Act, §§ 35-53.3-101 through 115, ~~**HB 98-1101**~~C.R.S.

~~**B**~~1.2. "Board" means the Colorado State Board of Stock Inspection Commissioners. ALL NOTIFICATIONS TO THE BOARD REQUIRED BY THIS RULE MUST BE MADE TO THE BROOMFIELD OFFICE AS DEFINED HEREIN.

~~**C**~~1.3. "~~**Denver**~~ BROOMFIELD Office" means the ~~**Denver**~~ BROOMFIELD office of the State Board of Stock Inspection COMMISSIONERS, ~~**4701 Marion Street, Room 201, Denver, Colorado 80216**~~ 305 INTERLOCKEN PARKWAY, BROOMFIELD, CO 80021.

1.4. "DIRECT TO SLAUGHTER MOVEMENT PERMIT" MEANS A CERTIFICATE ON FORMS PROVIDED TO CERTIFIED FEEDLOT LICENSEES BY THE BROOMFIELD OFFICE AND PREPARED BY PERSONS IDENTIFIED AND AUTHORIZED BY THE FEEDLOT TO PREPARE THE CERTIFICATE.

~~**D**~~1.5. "Inspector" means a brand inspector performing inspections on behalf of the State Board of Stock Inspection COMMISSIONERS, Colorado Department of Agriculture.

~~**E. "Legal entity" means any legal entity set forth in § 2-4-401(8), C.R.S.**~~

~~**F**~~1.6. "Notice within 24 hours of arrival" as used in § 35-53.5-109(3), ~~**HB 98-1101**~~C.R.S means notice shall be provided at any time before but not later than 24 hours after arrival.

~~**G**~~1.7. "Source" means the origin of the animals. That lot of animals purchased at a specific market on the same day are from the same source. Further, animals purchased from one legal entity and shipped together on one date from one shipping point are considered from the same source. For animals purchased by an order buyer from several entities and loaded at different locations, each shipping point, as identified by the required purchase documents pursuant to § 35-53.5-109(3), ~~**HB 98-1101**~~C.R.S, shall be considered a source.

PART 2.~~00~~ Application for certification

~~A~~2.1. A feedlot ~~shall~~ MUST apply for certification on the form(s) provided by the Board.

~~B~~2.2. At a minimum, the applicant ~~shall~~ MUST provide the following information:

~~(1)~~ 2.2.1. The full name of the legal entity to be named on the certification;

~~(2)~~ 2.2.2. Specification as to the type of legal entity, e.g., individual, corporation, limited liability company, partnership, or association;

~~(3)~~ 2.2.3. Mailing and/or business address for the feedlot;

~~(4)~~ 2.2.4. Physical address for the feedlot;

~~(5)~~ 2.2.5. The names and addresses of all owners, partners, ~~associate officers or corporate~~ MEMBERS OR officers, as applicable;

~~(6)~~ 2.2.6. The name and address of the registered agent for service, as applicable;

~~(7)~~ 2.2.7. The total feedlot capacity, when full; and,

~~(8)~~ 2.2.8. The number of separate pens with proper inspection areas for incoming feeder cattle.

~~C~~2.3. A~~ccompanying each new application shall be a~~ facility authorization form~~, as~~ provided by the Board~~,~~ AND signed by the area Inspector or INSPECTOR Supervisor, confirming that proper working areas and holding pens are available at the feedlot, MUST ACCOMPANY EACH NEW APPLICATION.

~~D~~2.4. The application fee, as set forth in ~~Section~~ PART 3.~~00 A~~1., ~~shall~~ MUST be submitted with the application.

~~E~~2.5. The feedlot ~~shall~~ MUST ensure proper and appropriate working areas for the inspections as defined in ~~Section~~ PART 4.~~00 F~~6.

PART 3.~~00~~ Fees

~~A~~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.

~~B~~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.

~~C~~3.3. All per head fees ~~shall~~ AND DIRECT TO SLAUGHTER MOVEMENT PERMITS MUST be received by the ~~Denver Office~~ BOARD not later than the 5th day of ~~each~~ THE MONTH FOLLOWING THE MONTH IN WHICH THE PERMITS ARE WRITTEN ~~month~~. Any payment received after the 15th day of the month shall be subject to a late fee IN THE AMOUNT of 10% of the ~~total inspection fee and the National Beef Promotion fee~~ AMOUNT ORIGINALLY DUE (INSPECTION FEE PLUS BEEF COUNCIL FEE), not to exceed $50.00 plus interest, pursuant to § 35-53.5-107(2), ~~HB 98-1101~~C.R.S. The late fee ~~shall~~ MUST be paid with the subsequent month's payment.

PART 4.~~00~~ Required separation of cattle

~~A~~4.1. Any feedlot with a new certification or being reinstated after suspension or revocation ~~shall~~ MUST not commingle any cattle which enter the lot after the effective date of certification or reinstatement with cattle in the lot prior to such certification or reinstatement. All animals in the lot prior to the date of certification or reinstatement ~~shall~~ MUST be inspected prior to slaughter

pursuant to the provisions of § 35-53-105 ~~or Article 11 of Title 12~~, C.R.S., and all applicable fees ~~shall~~ MUST be paid at the time of such inspection.

~~B~~4.2. All animals entering a certified feedlot not accompanied by a current brand inspection certificate or a purchase sheet from a brand inspection state specifically identifying the animals by brand or no brand shall be kept separate by source until inspected pursuant to § 35-53.5-109(3), ~~HB 98-1101~~C.R.S.

~~C~~4.3. Animals may be held separate by source in any secure enclosure at the certified feedlot where proper animal care can be provided.

~~D~~4.4. The facility must be such that animals held separate by source may be readily placed in an alley or other properly designed working area in which a thorough animal inspection may be accomplished by the assigned Inspector.

~~E~~4.5. ~~Any~~ ALL loads or shipments of animals ~~which cannot be readily placed by the Inspector in the proper working areas shall~~ MUST be placed in the working area by the feedlot personnel prior to inspection.

~~F~~4.6. A proper working area ~~shall~~ MUST contain alleys, chutes, gates, sorting pens and holding pens of adequate size to hold the number of animals requiring inspection.

PART 5.~~00~~ **Site inspections, audits and complaints**

~~A~~5.1. Any authorized Inspector or Board member may conduct a site inspection at the Inspector's or Board member's discretion. Such inspection may include:

~~(1)~~ 5.1.1. The entry log to verify recordkeeping;

~~(2)~~ 5.1.2. Pen and lot files to insure valid title has been established for each pen and lot as well as compliance with all requirements of the Act and these rules;

~~(3)~~ 5.1.3. Balancing the direct to slaughter ~~slips~~ MOVEMENT PERMITS to be maintained by each certified feedlot; and,

~~(4)~~ 5.1.4. Physical inspection o~~r~~F any lot(s) or pen(s) of cattle.

~~B~~5.2. Each certified feedlot will be audited and inspected ~~on a routine basis~~ QUARTERLY OR ON SUCH OTHER SCHEDULE AS THE BOARD SHALL DETERMINE during the certification period, by a person authorized by the Board.

~~C~~5.3. Each audit and inspection shall include ~~balancing~~ COMPARISON of the feedlot head count with the ~~actual~~ number of animals on the premises to numbers at the beginning of the certification or at the last audit, the number of animals shipped or dead, and additions of new animals to the feedlot.

~~D~~5.4. Any person having reasonable suspicion of a potential violation may request the Brand Commissioner, or his designated agent, to inspect the certified feedlot or any pen(s) therein. Any such request ~~shall~~ MUST be in writing, addressed to the Brand Commissioner, stating the potential violation(s), the reasons for the requested inspection and the anticipated results. If the request is an emergency, and it is determined that immediate action is required, the Brand Commissioner or his agent may begin the inspection without the written request, however, the

written request ~~shall~~ MUST be submitted as soon as possible. If the Brand Commissioner is unavailable, his agent shall be aN INSPECTOR ~~Board member in the area in which the complaint originates, or in his or her absence, any Board member~~.

PART 6.~~00~~ Recordkeeping requirements

~~A~~6.1. Certified feedlot owners and/or managers ~~shall~~ MUST keep the following records:

~~(1)~~ 6.1.1. A separate file containing the feedlot copy of each direct to slaughter movement permit, in numerical order. This file shall be known as the "out file;"

~~(2)~~ 6.1.2. Copies of all regular brand inspection certificates which are issued for the requested inspection of direct to slaughter animals or animals shipped ~~form~~ FROM the certified feedlot to any location other than direct to slaughter. These certificates shall be filed in the "out file," in chronological order;

~~(3)~~ 6.1.3. A separate file containing, in chronological order, the entry documents and/or brand inspection certificate/purchase invoices required by § 35-53.5-109(3), ~~HB 98-1101~~C.R.S;

~~(4)~~ 6.1.4. An entry log in the form and manner prescribed by the Board kept in chronological order of all animals entering the certified feedlot, pursuant to § 35-53.5-109(5), ~~HB 98-1101~~C.R.S;

~~(5)~~ 6.1.5. A file for each pen and/or lot identifying the number of head, legal owner of the cattle and copies of entry papers; and,

~~(6)~~ 6.1.6. A list of all dead animals by lot or pen number to be kept in the "out file" in chronological order.

PART 7.~~00~~ Movement of cattle from a certified feedlot

~~A~~7.1. The Board will provide prenumbered direct to slaughter movement permits to each certified feedlot, pursuant to § 35-53.5-108, ~~HB 98-1101~~C.R.S.

~~B~~7.2. Each lot or pen ~~shall~~ MUST be listed on ~~a separate~~ THE direct to slaughter movement permit.

~~C~~7.3. Each direct to slaughter movement permit ~~shall~~ MUST include the following information:

~~(1)~~ 7.3.1. The name of the certified feedlot;

~~(2)~~ 7.3.2. The legal owner(s) of the animals shipped;

~~(3)~~ 7.3.3. The number of animals shipped, showing the number of heifers, cows, bulls, steers and lot or pen number;

~~(4)~~ 7.3.4. The date the shipment was sent; and,

~~(5)~~ 7.3.5. The name, city and state of the United States Department of Agriculture ("USDA") LICENSED AND registered packing plant where the animals are consigned for slaughter.

~~D~~7.4. Certified feedlots may ship cattle to a Colorado licensed market without the feedlot inspection provided that the seller's invoice from the licensed market is filed in chronological order in the "out file."

*Editing comments: Changes to this rule are indicated in **~~bold strikethrough~~** for removal and **BOLD, SMALL CAP, DOUBLE UNDERLINE** for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.*

~~E~~7.5. Any animal leaving a certified feedlot to any destination other than direct to a USDA LICENSED AND registered packing plant must be inspected by an Inspector immediately prior to shipment, and all applicable fees ~~shall~~ MUST be paid, except as defined in ~~Section~~ PART 7.~~00 D~~4. above.

~~F~~7.6. Any animal removed by a byproducts company as dead or dying ~~shall~~ MUST be documented by a copy of the receipt from the byproducts company, filed in the "out file" in chronological order.

~~G~~7.7. Any voided ~~certificate shall~~ DIRECT TO SLAUGHTER MOVEMENT PERMIT MUST be marked "void." The ~~direct to slaughter~~ FEEDLOT copy ~~and the feedlot copy shall~~ MUST be ~~stapled together and~~ filed as required in ~~Section~~ PART 6.~~00~~. The original (WHITE) copy AND THE SLAUGHTER FACILITY (BLUE) COPY of the voided ~~certificate shall~~ DIRECT TO SLAUGHTER MOVEMENT PERMIT MUST be received by the ~~Denver office~~ BOARD by the 5th day of the ~~following~~ month FOLLOWING THE MONTH IN WHICH THE PERMIT IS PREPARED, along with ~~the valid~~ office copies of the ~~certificates~~ DIRECT TO SLAUGHTER MOVEMENT PERMITS issued AND NOT VOIDED.

PART 8.~~00~~ Renewal of certifications

~~A~~8.1. The Board will notify the certified feedlot, at the last address furnished by the certified feedlot, prior to the expiration of the certification period and deliver a renewal application to the feedlot. It ~~shall be~~ IS the responsibility of the certified feedlot to notify the ~~Denver office~~ BOARD of any change of address OR CHANGE IN THE AUTHORIZED SIGNER OF DIRECT TO SLAUGHTER MOVEMENT PERMITS.

~~B~~8.2. The renewal fee, which shall be determined by the Board prior to the notice of renewal period, shall be submitted with the completed renewal application.

~~C~~8.3. Any renewal application received ~~at~~ BY the ~~Denver office~~ BOARD after June 30 of the current certification period shall pay a late fee of $50.00.

~~D. Any certified feedlot applying for renewal shall complete the renewal application showing the total number of animals marketed directly to slaughter in the previous certification period (July 1 through June 30). These head count figures are part of the log described in § 35-53.5-109(5), HB 98-1101, which figures are not considered a public record.~~

~~E~~8.4. Any feedlot that elects NOT to ~~not~~ renew ~~shall~~ MUST have all animals inspected prior to shipment pursuant to § 35-53-105, C.R.S. beginning July 1 immediately following termination of the renewal period.

PART 9.~~00~~ Disciplinary actions

~~A~~9.1. The Board may deny, suspend, refuse to renew or revoke any certification if the applicant or certificate holder has:

~~(1)~~ 9.1.1. Violated any provisions of Articles 43, 44, 53, or 54 of Title ~~23~~5, C.R.S., or any rules promulgated there~~to~~ UNDER;

~~(2)~~ 9.1.2. Entered a plea of guilty or nolo contendere or been convicted of a~~n~~ criminal act under Title 18, C.R.S.;

~~(3)~~ 9.1.3. Violated any provision of the Act or these rules; ~~and/~~or

~~(4)~~ 9.1.4. Refused or failed to allow inspection or audit pursuant to ~~Section~~ PART 5.~~00~~.

~~B~~9.2. Any feedlot whose certification has been revoked or suspended ~~shall~~ MUST immediately, upon notice of ~~the disciplinary action~~ SUCH REVOCATION OR SUSPENSION, cause all animals leaving the feedlot to be inspected pursuant to § 35-53-105, C.R.S. and ~~shall~~ MUST pay all applicable fees.

~~C~~9.3. ~~Any~~ NO feedlot whose certification has been revoked ~~shall not~~ MAY reapply for certification until the expiration of two years after the revocation.

~~D~~9.4. ~~Any feedlot whose certification has been revoked or suspended shall be required to pay the annual certification fee, regardless of the effective date of reinstatement~~ NO PORTION OF THE APPLICATION FEE SHALL BE REFUNDED REGARDLESS OF THE DATE OF REVOCATION, SUSPENSION OR SURRENDER OF CERTIFICATION.

PART 10. STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

10.1. 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, 2016

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 IN CONFORMITY WITH EXECUTIVE ORDER D 2012-002.

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.

Editing comments: Changes to this rule are indicated in ***~~bold strikethrough~~*** *for removal and* ***BOLD, SMALL CAP, DOUBLE UNDERLINE*** *for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.*

FINALLY, WHERE SENTENCES OR IDEAS LACKED CLARITY, THE BOARD RE-WORKED THE SENTENCES TO MAKE THEM MORE CLEAR AND PRECISE.

COLORADO
Department of Agriculture
00 F 303.466.2867
ww.colorado.gov/ag

NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

"Rules Pertaining to the Feedlot Certification Act"

8 CCR 1205-4

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:	December 13, 2016
TIME:	10:30 a.m.
LOCATION:	Colorado Department of Agriculture Big Thompson Conference Room 305 Interlocken Parkway Broomfield, Colorado 80021

The purpose of this rulemaking is 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 in conformity with Executive Order D 2012-002.

The statutory authority for these rules is § 35-53.5-103(1)(a) through (f), 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

2016-00573

Department

1504 - Department of Higher Education

Agency

1504 - Division of Private Occupational Schools

CCR number

8 CCR 1504-1

Rule title

PRIVATE OCCUPATIONAL EDUCATION ACT OF 1981

Rulemaking Hearing

Date

12/06/2016

Time

11:00 AM

Location

Tivoli Student Center, Auraria Higher Education Campus 900 Auraria Parkway Denver, CO 80204

Subjects and issues involved

The rulemaking reflects amendments to Rules II and IV.

The basis and purpose of the proposed amendments to the Private Occupational School Board Rules and Regulations (8 CCR 1504-1) is to consider fee revisions and to clarify the language for surety requirements.

Statutory authority

The statutory authority for the rules is found in § 12-59-105.3(1)(j), C.R.S.

Contact information

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Title

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RULES AND REGULATIONS

Concerning

The Private Occupational Education Act of 1981

EFFECTIVE ~~SEPTEMBER 14, 2014~~ January 31, 2017

Private Occupational School Board
Colorado Department of Higher Education

Division of **Private Occupational Schools**
1560 Broadway – Suite 1600
Denver, CO 80202

The official publication of these rules exists in the Colorado Code of Regulations
(8 Colorado Code of Regulations 1504-1)

DEPARTMENT OF HIGHER EDUCATION

Division of Private Occupational Schools

RULES AND REGULATIONS CONCERNING THE PRIVATE OCCUPATIONAL EDUCATION ACT OF 1981

The official publication of these rules exists in the Colorado Code of Regulations (8 CCR 1504-1)

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

STATEMENT OF BASIS AND PURPOSE

The Private Occupational School Board, Colorado Department of Higher Education adopts these Rules and Regulations pursuant to the rule making authority as stated in the Private Occupational Education Act of 1981, Colorado Revised Statutes, Article 59 of Title 12 ("The Act"), for the purpose of delineating and clarifying the respective responsibilities of the Private Occupational School Board, the Division of Private Occupational Schools and the Private Occupational Schools under the Act as revised.

II. GENERAL AND ADMINISTRATIVE

FEE SCHEDULE

Effective Date ~~9/14/14~~January 31, 2017

FEE TYPE		FEE AMOUNT
Provisional School:	Initial Application for Certificate of Approval **(COA)*** --includes all new Programs and Stand Alone Courses	$ ~~1,750.00~~5,000.00/ school*
	Initial COA Application for Additional Campus	$ ~~1,250.00~~2,500.00/ campus
		Per School/Campus
Renewal School:	Standard COA – three (3) year period	$ ~~1,500.00~~2,000.00
		Per Program and/or Stand Alone Course
Programs/Courses:	New Program/Stand Alone Course per Campus *for already approved schools*	$ ~~125.00~~500.00
	Revised (Major or Minor) Program/Stand Alone Course per campus	$ ~~125.00~~500.00
		Per Agent
In-State Agent Permit:		$ ~~175.00~~300.00
In-State Agent Permit for Multiple Campus Locations *under same ownership with same school name:* One (1) Permit per agent—valid at all campus locations (Provisional or Standard COA)		$ ~~175.00~~300.00
		Per Agent
Out-of-State Initial/Renewal:	Initial application and annual renewal	$ ~~1000.00~~2,500.00
Out-of-State Agent Permit per Year *under same ownership with same school name:* One (1) Permit per agent—valid at all campus locations		$ ~~550.00~~300.00

	Per Enrolled Student
Student Assessment: In-State and Out-of State, Quarterly per Enrolled Student (out-of-state is Colorado resident that resides with-in Colorado receiving training or Colorado resident recruited to attended out-of-state school)	$ ~~3.75~~5.00 (Subject to Change)
	Per School/Campus
Change of School Location	$ 500.00
Change of School Name	$ 250.00
Change of School Ownership	$ ~~1,750.00~~2000.00
	Per Transcript
Student Transcript for Closed School	$35.00
Failure to pay and/or late payment of fees	1st violation: minimum $100; 2nd minimum $300; 3rd minimum $500, and each violation thereafter $500.
Failure to adequately and timely submit Annual Filings pursuant to Rule V	$500 minimum per violation per year

***~~Programs and Stand Alone Course Approvals for~~Initial application fee for provisional/new schools includes a combination of up to ~~: no additional fee for up to 10~~5 total programs and ~~20~~ stand-alone course~~s approval~~ for consideration. Any additional programs or stand-alone courses ~~beyond the 10 and 20 figure~~ are subject to the ~~the $~~100 ~~125 per consideration~~ fees listed above.**

PLEASE NOTE:

1. Please make all checks payable to: "DPOS" or "Division of Private Occupational Schools"
2. Fees are NOT refundable.
3. Fees are established pursuant to C.R.S. 12-59-116 (1) "for the direct and indirect costs of the administration of" the Private Occupational Education Act of 1981.

IV. APPLICATION FOR CERTIFICATE OF APPROVAL AND SURETY REQUIREMENTS

E. Surety Bonds and Surety Bond Alternatives

1. At the time application is made for a Certificate of Approval, or when new programs, stand-alone courses or continuing education courses are added, the applicant shall file with the Division a surety bond or surety alternative which meets the requirements set forth in these Rules. Schools located in Colorado each shall file one bond or alternative covering the school and its agents.

   a. A school whose surety value is found by the Board to be insufficient to fund the unearned, prepaid tuition of enrolled students shall be noncompliant with these Rules, and, if, after a period of time determined by the Board from the issuance of a notice of noncompliance, the school has not increased its surety to an acceptable level, it shall be subject to revocation or suspension of its certificate of approval.

   b. Pursuant to C.R.S. 12-59-113 (5) and 12-59-115 (10):

      (1) Schools must submit a continuation certificate to the Division no less than fifteen (15) days prior to the renewal date of the bond confirming the next term of coverage.

      (2) Schools must submit the following for alternative surety instruments:

         (i) Schools that have assigned a certificate of deposit to the Division as a surety bond alternative must submit a bank statement or other acceptable verification from the bank within fifteen (15) days of the maturity date or as requested by the Board. The bank statement must show that the certificate of deposit account remains open, the account number, the amount of the Certificate of Deposit, and the next maturity date/ term.

         (ii) Schools that have assigned a savings account to the Division as a surety bond alternative must submit annually, or as requested by the Board, a current bank statement or other acceptable verification from the bank confirming the account remains open. The bank statement must show the savings account number and the balance of the savings account.

(iii) Schools that have assigned an irrevocable letter of credit to the Division as a surety bond alternative must submit verification that the letter of credit requirements are still being met and that the irrevocable letter of credit remains in effect, within fifteen (15) days prior to the expiration date or as requested by the Board. The verification must include the letter of credit number, the amount, and the next expiration date or term, if applicable.

COLORADO
Division of Private Occupational Schools
Department of Higher Education

John Hickenlooper
Governor

Diane Duffy
Interim Executive Director

Lorna Candler
Director

Notice of Proposed Rulemaking and Rulemaking Hearing

Pursuant to § 24-4-103 of the Colorado Revised Statutes ("C.R.S."), you are hereby notified that the Division of Private Occupational Schools Board ("Board") will be holding a public rulemaking hearing as follows:

Date: December 6, 2016
Time: 11:00 AM-12:00 PM
Location: Tivoli Student Center
Auraria Higher Education Campus Room 320 B & C
900 Auraria Parkway
Denver, CO 80204

The rulemaking reflects amendments to Rules II and IV.

The basis and purpose of the proposed amendments to the Private Occupational School Board Rules and Regulations (8 CCR 1504-1) is to consider fee revisions and to clarify the language for surety requirements.

The statutory authority for the rules is found in § 12-59-105.3(1)(j), C.R.S.

Please be advised that the proposed rules may be changed after public comment and formal hearing. At the time and place stated in this notice, the Board will afford interested persons an opportunity to submit written data, views, or arguments, and to submit the same orally. The Board may limit the time allotted for oral submissions. Written submissions should be filed with the Board at least two (2) business days prior to the hearing. All submissions will be considered. Written submissions may be filed at the following address:

Colorado Division of Private Occupational Schools
1560 Broadway, Suite 1600
Denver, CO 80202

OR

Lisa.Hill@dhe.state.co.us

Notice of Proposed Rulemaking

Tracking number

2016-00569

Department

500,1008,2500 - Department of Human Services

Agency

2503 - Income Maintenance (Volume 3)

CCR number

9 CCR 2503-6

Rule title

COLORADO WORKS PROGRAM

Rulemaking Hearing

Date

12/02/2016

Time

10:00 AM

Location

Denver Eastside Human Services Building, 3815 Steele Street, Denver, CO 80205

Subjects and issues involved

The half sibling rule would be eliminated since current support will be passed through to the assistance unit without determent and will also be less confusing for the technician's workflow. The change for assignment of current child support would allow it to be passed to the assistance unit instead of retained following the legislation changes. At intake, Child Support received willed will continue to be treated as it is today and compared against the Need Standard to determine eligibility. If the assistance unit is under the need standard, Child Support income will not be used in determining the grant amount.

For ongoing cases (during the certification period), all Child Support income will not be counted. It will not be used in determining the grant amount and will not be compared to the need standard. Change agency name to Child Support Services.

Statutory authority

26-1-107, C.R.S. (2016); 26-1-109, C.R.S. (2016); 26-1-111, C.R.S. (2016); 26-2-703 (19), C.R.S. (2016) - TANF, 26-13-108, C.R.S. (2016); 26-2-111, C.R.S. (2016); 26-2-108, C.R.S. (2016)

Contact information

Name

Amber Athey

Title

Rule Author

Telephone

303-866-2928

Email

amber.athey@state.co.us

Title of Proposed Rule:	Revisions to Colorado Works Rules for SB15-012 Pass Through Project		
CDHS Tracking #:	16-6-28-1		
Revising CCR #s:	9 CCR 2503-6 Volume 3		
Office, Division, & Program:	Rule Author: Amber Athey	Phone: 303-866-2928	
OES, Employment and Benefits Division, Colorado Works Program		E-Mail: amber.athey@state.co.us	

STATEMENT OF BASIS AND PURPOSE

With the passage of Senate Bill 15-012, Colorado will be implementing a Pass-Through for child support collected to those who receive Temporary Aid for Needy Families (TANF) or Colorado Works, as it is known in Colorado, Basic Cash Assistance (BCA). Previously, the state intercepted all child support that was owed to Colorado Works customers. Once the bill is implemented, Colorado will be the only state in the country to have a full Pass-Through of all monthly current child support collected each month to Colorado Works customers who receive Basic Cash Assistance. This change will be implemented in 2017 as it has required extensive preparation and significant changes to the Automated Child Support Enforcement System (ACSES) and the Colorado Benefits Management System (CBMS).

The child support Pass-Through is intended to enable Colorado Works customers to receive child support payments made by a non-custodial parent in addition to the financial support they receive through Colorado Works. The Pass-Through will allow Colorado Works customers to receive both the Colorado Works grant and the child support payment. The grant amount will not be impacted based on the child support amount received, resulting in an overall increase in the family's monthly income.

Authority for Rule:

State Board Authority: 26-1-107, C.R.S. (2016) - State Board to promulgate rules; 26-1-109, C.R.S. (2016) - state department rules to coordinate with federal programs; 26-1-111, C.R.S. (2016) - state department to promulgate rules for public assistance and welfare activities.

Program Authority: 26-2-703 (19), C.R.S. (2016) - TANF, 26-13-108, C.R.S. (2016)-state and county share of child support collections 26-2-111, C.R.S. (2016)-Eligibility for public assistance-Colorado works program, 26-2-108, C.R.S. (2016) - Granting of assistance payments and social services.

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

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

County Human Services Directors Association, The Legal Center, All Families Deserve a Chance (AFDC) Coalition, Office of Economic Security (OES) Sub-PAC, County Child Support Services Administrators, County Colorado Works Administrators, Regional Partners—Federal Office of Child Support Enforcement, Colorado Department of Health Care Policy & Financing, Colorado Department of Human Services Food and Energy Assistance Division, Colorado Center on Law & Policy, Colorado Legal Services, and the Fatherhood Program.

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "all caps", and changes made between initial review and final adoption are in brackets.]

Attachments:
Regulatory Analysis
Overview of Proposed Rule
Stakeholder Comment Summary
Senate Bill 15-012 Fiscal Note

Title of Proposed Rule:	Revisions to Colorado Works Rules for SB15-012 Pass Through Project	
CDHS Tracking #:	16-6-28-1	
Revising CCR #s:	9 CCR 2503-6 Volume 3	
Office, Division, & Program:	Rule Author: Amber Athey	Phone: 303-866-2928
OES, Employment and Benefits Division, Colorado Works Program		E-Mail: amber.athey@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule:

All custodial parents receiving Colorado Works and noncustodial parents (NCPs), as the custodial parents will now be able to receive all current child support paid by the NCPs, rather than that support be retained by the State. This will not impact the State collecting arrear payments made toward child support.

2. Describe the qualitative and quantitative impact:

The projected impacts of this policy include the benefits associated with additional household income that accrue to individual families and larger communities, as well as with improved family relationships. Child support payments matter tremendously to poor families; the Congressional Research Service reported that in 2013, among poor families who received child support, those payments represented an average of 49% of their yearly income[1]. The Urban Institute estimates that every dollar of child support collected by the family reduces public assistance costs by 13 cents.

Passing funds through appears to increase both the likelihood that any payment is made and the amount of individual payments received. Research conducted by the Urban Institute[2] and the Institute for Research on Poverty[3] has found that by passing through the full amount of current support to the child, the percentage of cases with payments increased by 1.8 to 2.7 percentage points in the first year, and by about 3 percentage points at three years for both studies. The same studies found that the amount of child support payments increased by 5.6 to 23 percent in year one and by 11 to 12 percent in year three.

In 2014 and 2015, on average 570 Colorado Works cases per month received a child support payment toward current child support for an average of $133.45. Annually and at the state level, this rolls up to a total of $6,295,390 in 2012 for 7,000 families. This policy will pass those funds on to the families on whose behalf they were received.

Additional benefits to families we anticipate resulting from this policy include:
1. Possible reduction in cases referred to child welfare,[4]
2. Increased paternity establishment,[5]
3. Improved child outcomes such as educational attainment and reduction in behavioral problems[6 & 7]
4. More parental involvement in children's lives[8]

[1] Child Support: An Overview of Census Bureau Data on Recipients. Congressional Research Service. March 1, 2016. https://www.fas.org/sgp/crs/misc/RS22499.pdf
[2] Lippold, Kyle, et al. (November 2010). *Evaluation of the $150 Child Support Pass-Through and Disregard Policy in the District of Columbia.* Urban Institute, DC: Washington.
[3] Meyer, Daniel R., and Maria Cancian. (2001.)*W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment*. Report to the Wisconsin Department of Workforce Development. University of Wisconsin–Madison, Institute for Research on Poverty.
[4] Cancian, Maria; Slack, Kristen; and Young, Mi. (August 2010). "The Effect of Family Income on Risk of Child Maltreatment," *Institute Research on Poverty Discussion Paper* 1385-10, University of Wisconsin.
[5] *W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment*.(2001) Ibid.
[6] Involving Non-Resident Fathers In Children's Learning. A *Father Matter* Report, Chapter 1: Why Fathers Matter. US Department of Health and Human Services, September 2000.
[7] Ibid.
[8] Seltzer, J.A., McLanahan, S., Hanson, T. (March 1997) "*Will Child Support Enforcement Increase Father-Child Contact and Parental Conflict after Separation?"*

Statewide data suggests that child support payments to Colorado Works families are inconsistent and infrequent. To reduce administrative burdens for workers and customers, child support payments will be considered every six months at redetermination. Any support under the threshold will not be counted.

Senate Bill 15-012 states that the General Assembly may annually appropriate moneys to reimburse the counties fifty percent of the child support collections that are paid to families through the Pass-Through to backfill their loss of revenue and the Federal Government for its share of the Pass-Through. In any fiscal year in which the General Assembly does not appropriate the necessary amount of moneys to cover these costs of the Pass-Through, the ACSES and the CBMS must be programmed to not pass through the collections. That is part of the Pass-Through design that is being developed.

3. Fiscal Impact:

State Fiscal Impact:
Funding was received through the legislation fiscal note for Senate Bill 15-012 to include operational expenses of 1) multiple system changes, 2) contract personnel, 3) training, and 4) outreach.

County Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the County level.

Federal Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the Federal level.

Other Fiscal Impact:
None because most barriers are addressed with fiscal note and Waiver commitment.

4. Data Description:

Department used an outside vendor, The Center for Policy Research, to conduct analysis and collected research findings on Pass-Through done in other States. Using Colorado data, they applied findings to forecast cause and effect on possible implications of the Pass-Through when applied to the current caseload.

5. Alternatives to this Rule-making:

No alternative because this is based on statutorily required changes to implement the legislative directive given in S.B. 15-012.

Title of Proposed Rule: Revisions to Colorado Works Rules for SB15-012 Pass Through Project
CDHS Tracking #: 16-6-28-1
Revising CCR #s: 9 CCR 2503-6 Volume 3

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program
Rule Author: Amber Athey
Phone: 303-866-2928
E-Mail: amber.athey@state.co.us

OVERVIEW OF PROPOSED RULE

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

Section Numbers	Current Regulation	Proposed Change	Stakeholder Comment	
3.604.2 O 1	*Assignment of all child support during duration of grant*	*Allows the current child support to be passed through to family*	***X Yes***	***No***
3.605.3 1 c and j 3.605.3 E 1	*Child support will be considered countable income*	*At intake, child support will be compared against the needs standards. If under the needs standards, child support will not be used in determining grant amount ongoing. At redetermination, if child support for household unit is greater than $500.00 per month over 6 consecutive months, then it will be considered against the needs standard to see if the assistance unit remains eligible.*	***X Yes***	***No***
3.605.3 E 2	*County pass through is an option*	*No longer an option with 100% of current support paid to the participant with no county retained collection.*	***X Yes***	***No***
3.609.4 F 3.609.4 G	*Criteria for establishing/recovering TANF overpayments when child support is received.*	*Will no longer be using child support received during the grant in computation for recovery nor subtracting out those payments to reimburse overpayments*	***X Yes***	***No***
3.602.1-3.609.94.D.1.c (multiple sections)	*Child Support Enforcement*	*Child Support Services*	***X Yes***	***No***

Title of Proposed Rule:	Revisions to Colorado Works Rules for SB15-012 Pass Through Project
CDHS Tracking #:	16-6-28-1
Revising CCR #s:	9 CCR 2503-6 Volume 3

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program

Rule Author: Amber Athey

Phone: 303-866-2928

E-Mail: amber.athey@state.co.us

STAKEHOLDER COMMENT SUMMARY

DEVELOPMENT

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):
Child Support Pass Through Steering Committee, Child Support Pass Through Policy Subcommittee, Colorado Department of Human Services Food and Energy Assistance Division, and the Colorado Department of Human Services Child Support Services Division

THIS RULE-MAKING PACKAGE

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:
County Human Services Directors Association, The Legal Center, All Families Deserve a Chance (AFDC) Coalition, Office of Economic Security (OES) Sub-PAC, County Child Support Services Administrators, County Colorado Works Administrators, Regional Partners—Federal Office of Child Support Enforcement, Colorado Department of Health Care Policy & Financing, Colorado Department of Human Services Food and Energy Assistance Division, Colorado Center on Law & Policy, Colorado Legal Services, and the Fatherhood Program

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

[X] Yes [ ] No

If yes, who was contacted and what was their input? Marivel Klueckman with Colorado Department of Health Care Policy and Financing was contacted. No input received.

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

[X] Yes [ ] No

Date presented August 4, 2016.

What issues were raised? None

If not presented, explain why.

Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

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

Stakeholder Feedback/Questions:

El Paso County Department of Human Services: Sharon Eddy

Question:
Will tax intercepts be passed through? My understanding is that the six months of child support will be averaged. If a household receives only $150 for five of those months, but then receives a tax intercept of $3000 in the 6th month, will the HH be ineligible? Would they just be ineligible the first month of RRR, and then be eligible to reapply the following month? Or would there be POI?

Response:
No, tax intercepts will not be passed through at this time. Your understanding is correct that six months of current monthly child support will be averaged after it has been determined there are consistent payments. To modify your example, if a household receives only $150 for five of those months, but then receives a lump sum payment of current monthly support (not tax intercept) of $3000 in the 6th month, the average would be $625 per month of income ($150 x 5 + $3000/6 months) that would be counted at RRR. Keep in mind that the monthly current support due in the example would be at least $3000 for the entire amount to be included in the average. The household could re-apply and the county department would use the regular intake eligibility requirements, comparing all income to the Need Standard for the family size. There would be no Period of Ineligibility (POI) applicable.

Weld County Department of Human Services: Jamie Ulrich

Weld County has the following feedback regarding the proposed rules/legislation:

Comment:
1. There are general concerns about the legislation itself- it is unclear how this is going to impact the counties fiscally, specifically if there is an increase in BCA being paid out. This could result in fewer resources for counties to spend on employment activities and supportive services.

Response:
Thank you for this input. The State will be closely monitoring the fiscal impacts of the Pass Through. Please review the fiscal note attached that has a broader financial analysis to better illustrate the counties fiscal impact. The Child Support Pass Through Steering Committee, Policy Subcommittee, in conjunction with the State Policy team reviewed data related to this concern. Intake eligibility standards are not changing with the implementation of the Pass Through, so it is anticipated that there would be a minimal increase in Basic cash Assistance or BCA being paid out. Counties are encouraged to continue to increase the support provided through employment activities and services through the county block grant. With the elimination of the half-sibling rule, the family size may increase which could lead to an increase in the need standard so the Employment and Benefits Division gathered additional information and based on feedback received, has decided to not move forward rule or system modifications impacting the half-sibling rule.

Comment:
2. There are still some unknowns surrounding how the pass through will affect other benefits, such as Housing and Food Assistance.

Response:
Eligibility and payment for other programs may be impacted. We do not anticipate rules changing for other programs due to implementation of the Pass Through, therefore if child support is now countable for the

program, it will likely remain countable. Food Assistance would be impacted by a reduction of the amount of benefits the household would receive by 3 to 1, meaning for every $3 dollar of support received it would affect the grant by $1 and would impact eligibility about 2 months after receipt of the child support payment.

Comment:
3. The workload impact on the Child Support Services side will be increased, due to the increase in customer inquiries and payment processing; as well as information sharing with Colorado Works staff (who are unable to view ACSES due to security restrictions).

Response:
The Child Support Pass Through Steering Committee, Communication and Training subcommittees are developing messaging to address the impact on staff and prepare them to handle questions efficiently as well as providing education and explanation for customers. Payment processing will be automated through the ACSES and CBMS systems so there are anticipated minimal workload increases.

Weld County specific concerns regarding the Colorado Works rules include:

Question:
1. Please explain where the language and definition of "inconsistent child support payments" (average of over $500 in combination with other income over the previous 6 months) for redetermination come from. It appears that the statute states that payments are not to be considered as income in determining eligibility.

Response:
The Child Support Pass Through Steering Committee, Policy Subcommittee, in conjunction with the State Policy team defined the term "inconsistent child support payments" by evaluating data on the current Colorado Works caseload. The groups found that the $500 threshold, in combination with the consistency test, would allow the majority of families to continue in the program, avoiding the cliff effect, reducing churn, reducing administrative burdens and staying consistent with current eligibility requirements set through the Colorado Works certification period. Also, to clarify, Statute revised in C.R.S 26-2-108 (II) (A) states:
"Such payments shall not be considered income for purposes of calculating a recipient's basic cash assistance grant pursuant to part 7 of this article. *However, such payments, with applicable disregards,* ***shall be considered income*** *for purposes of determining eligibility*." (emphasis added)

Question:
2. Please explain why child support arrears are considered as exempt income and not used for eligibility calculation.

Response:
Child support arrears are considered a debt and are not part of the new Pass Through changes. Rules around child support arrears are not changing.

Arapahoe County Department of Human Services: Pamela Olesen

Question:
Can you please refresh my memory; why did we specifically state $500 as the threshold for redeterminations?

Response:
The Child Support Pass Through Steering Committee, Policy subcommittee, in conjunction with the State Policy team evaluated data on the current Colorado Works caseload and found that the $500 threshold, in combination with the consistency test, would allow the majority of families to continue in the program, avoiding

the cliff effect, reducing churn, reducing administrative burdens and staying consistent with current eligibility requirements set through the Colorado Works certification period.

Question:
Also, I was looking at this language for new applications with my Deputy Director and the question came up; why do we average for an RRR but not for a new application? CCAP has recently re-written rules (they may still be in proposed status) around child support income and would it be beneficial to align them? This is how the proposed rule reads; or at least had when the rewrite committee submitted it.
h. Irregular child support income, NOT INCLUDING LUMP SUM PAYMENTS, MAY must be averaged over a period of time up to twelve (12) months in order to calculate household income.
1) NON-RECURRING LUMP SUM PAYMENTS, INCLUDING LUMP SUM CHILD SUPPORT PAYMENTS, MAY BE INCLUDED AS INCOME IN THE MONTH RECEIVED OR AVERAGED OVER A TWELVE (12) MONTH PERIOD, WHICHEVER IS MOST BENEFICIAL FOR THE CLIENT.

Response:
The Employment and Benefits Division is not changing intake eligibility with the implementation of Child Support Pass Through. Child Support payments being received by a family at application would not be considered a "passed through" payment, and would be considered either direct receipt or current support. Colorado Works requirements do not align with CCCAP rules now. The new proposed rules for CCCAP do not contradict Colorado Works rules either but leave it to the staff to do what is most beneficial for the client.

Jefferson County Department of Human Services: Alvin Tafoya

Question:
Do you have a document which identifies the financial impact to counties regarding these changes or the cost that the state "may" assume as a result of these changes. I know one was created some time ago, but I am unable to locate that information and our director would like an updated version to ensure that the state budget appropriates said funding to support this endeavor.

Response:
There is not a specific document identifying the county fiscal impact as there is no anticipated impact to the counties related to the Pass Through. The General Assembly may annually appropriate funds to the State to reimburse the counties. If the General Assembly does not appropriate the funds necessary to reimburse counties for their share of retained child support payments, counties are not required to implement the Child Support Pass Through to Colorado Works recipients but may choose to do so using county revenues. See the attached document on the Fiscal Note. If you are referring to the IRS tax intercept document, which the State provided a cost estimate for, that issue has not been decided and may be considered through a separate rule proposal and system change. The current Pass Through proposed rules and system changes do not include the tax interception component.

Mesa County DHS: Michelle Trujillo

Question:
Should there be a second set of rules that would be used in the event that pass through is NOT funded?

Response:
The proposed rule changes are not dependent on the pass through being funded. It is the intent of policy to continue to exempt child support income. Therefore, a second set of rules is not needed. However, if it comes to having to turn this off, we will have enough time to react from one fiscal year to the next.

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program
Rule Author: Amber Athey
Phone: 303-866-2928
E-Mail: amber.athey@state.co.us

Question:
Should we say something about period of intent when talking about child support? For example, if child support comes in January, February, and March, then in April it isn't paid until April 30th, so to shows up in CBMS May, then the NCP pays their regular payment in May and June. Will CBMS know that one of the two May payments was for April to count the six consecutive months?

Response:
The date of receipt will be used by CBMS, not the period of intent, when looking at consistency of payments. CBMS will also use the date a RRR is processed to determine the look back period. For example, a RRR due for 8/31 but processed on 7/25, would look at payments received January through June. If that same RRR was processed on 8/5, the look back period would be February through July.

Question:
Should we say "effective in the seventh month? I feel we need to state specifically in rule the effective month to begin counting the child support income.

Response:
With the RRR being done early or later (as described in the previous response), stating the seventh month could add more confusion. By defining 6 months of payments, the intent is not to delay the decision making when determining if countable or not.

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program
Rule Author: Amber Athey
Phone: 303-866-2928
E-Mail: amber.athey@state.co.us

Senate Bill 15-012 Fiscal Note:

Colorado Legislative Council Staff Fiscal Note

FINAL
FISCAL NOTE

Drafting Number:	LLS 15-0101	**Date:**	October 8, 2015
	Sen. Kefalas	**Bill Status:**	Signed into Law
Prime Sponsor(s):	Rep. Pettersen	**Fiscal Analyst:**	Lauren Schreier (303-866-3523)

BILL TOPIC: COLORADO WORKS PASS-THROUGH CHILD SUPPORT PAYMENT

Fiscal Impact Summary*	**FY 2015-16**	**FY 2016-17**	**FY 2017-18**
State Revenue		**($2,056,965)**	**($4,320,000)**
Cash Funds		(2,056,965)	(4,320,000)
State Expenditures	**$868,895**	**$2,779,531**	**$3,090,566**
General Fund	315,509	1,967,482	3,057,616
Federal Funds	553,386	812,049	32,950
Appropriation Required: $868,895 - Department of Human Services (FY 2015-16).			

** This summary shows the bill's changes from current law for each fiscal year. Parentheses indicate a reduction.*

Summary of Legislation

Current law requires that an individual eligible for Temporary Assistance for Needy Families (TANF) in the Colorado Works Program assign to the Department of Human Services (DHS) his or her right to receive child support payments. The state may retain all child support payment income as a reimbursement for TANF assistance paid.

Effective January 1, 2017, the bill allows the state and counties to disregard child support income a TANF recipient may be eligible to receive and pass-through such income to the TANF recipient. Under the bill, any child support income a TANF recipient receives will not be considered income when calculating the basic cash assistance grant an individual may receive. Such payments, with applicable disregards, will be considered income for the purposes of determining eligibility. The General Assembly may annually appropriate moneys to the DHS to reimburse the counties for 50 percent of child support collections and the federal government for its share of child support collections. If the General Assembly does not appropriate the moneys necessary to reimburse counties and the federal government for their respective shares of retained child support payments, counties are not required to implement the child support pass-through to TANF recipients but may choose to do so using county revenues. The DHS must annually report to the Joint Budget Committee the amount of child support collected and paid by the counties to families eligible for TANF.

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Background

The Colorado Works Program, Colorado's TANF program, is operated by county departments of human services and overseen by the state Department of Human Services. The program provides financial assistance to aid eligible families in reaching economic self sufficiency through cash assistance and other benefits, including food stamps. Beyond meeting basic program guidelines, all 64 counties have discretion in designing their TANF programs to best meet local needs. Adults need to reapply for benefits every six months and, with limited exceptions, may receive up to 60 months of benefits in their lifetime.

The Automated Child Support Enforcement System (ACSES) tracks certain child support payments in the state. The ACSES is administered by the DHS and each county uses the ACSES system to track payments received and owed to parents. The Colorado Benefits Management System (CBMS) has been the statewide benefits management system since 2004. The CBMS allows qualified citizens to apply for medical, food, and monetary assistance.

Assumptions

This fiscal note makes the following assumptions:

- information technology updates are required under the bill and will take up to two years to implement;
- state revenue in the form of remitted child support payments from non-custodial parents will be reduced by about $2,056,965 in FY 2016-17, plus five percent inflation per year;
- child support payment collections will increase by five percent a year;
- revenue reductions are shown as an increase in state and local expenditures as the fiscal note assumes benefits for TANF recipients will not change as a result of SB 15-012; and
- federal funds will be paid from Title IV-D of the Social Security Act.

State Revenue

The bill is estimated to reduce state cash fund revenue by $2,056,965 in FY 2016-17 and by $4,320,000 in FY 2017-18. Currently, the state retains some of the child support payments received on behalf of TANF recipients and the money is shared between the federal, state, and county governments. This fiscal note assumes that revenue losses will occur after the January 1, 2017, implementation date. As a result, the fiscal note assumes no change in state revenues for FY 2015-16.

State Expenditures

The bill increases costs in the DHS by $868,965 in FY 2015-16 and by $2,779,531 in FY 2016-17. Of the $868,965 in FY 2015-16 costs, $315,509 is from the General Fund and $553,386 is from federal funds. These costs are associated with information technology enhancements, contract staff to oversee the project, and training for counties concerning changes under the bill. After the pass-through is implemented on January 1, 2017, the bill increases costs by up to $1,515,496 in FY 2016-17 and up to $3,024,000 in FY 2017-18, primarily to replace the revenue shortfall to counties and the federal government after implementation of the child support pass-through. Table 1 outlines these costs.

Table 1. Expenditures Under SB 15-012

Cost Components	**FY 2015-16**	**FY 2016-**	**FY 2017-**
Information Technology Costs	$792,921	$1,149,366	$0
Implementation Contractors	$75,974	131,235	66,566
Public Outreach and Education	0	50,000	0
Amount Reimbursed to Federal Government		420,448	864,000
Backfill to Counties*	0	1,028,482	2,160,000
TOTAL	**$868,895**	**$2,779,531**	**$3,090,566**
General Fund	315,509	**2,050,426**	**3,057,616**
Federal Funds	553,386	**729,105**	**32,950**

** In FY 2016-17 TANF Replacement costs are prorated to reflect the January 1, 2017, implementation date.*

Information technology costs. In FY 2015-16 and FY 2016-17 the bill requires the DHS to update both the Automated Child Support Enforcement System (ACSES) and the Colorado Benefits Management System (CBMS). These costs are based on historical experience from system changes of similar scope from the Office of Information Technology (OIT). At present, both the ACSES and the CBMS lack the infrastructure required to administer and track child support payments and TANF payments in an integrated manner.

Implementation contractors. The DHS will require contractors with expertise in benefit payment systems to assist in program development, programming changes, rule development and modification, updating existing policies and procedures, and technical assistance to state and county staff to implement changes under the bill.

Public outreach and education. The DHS must conduct public outreach and education to alert potential and current recipients to upcoming policy changes under the bill in FY 2016-17. The funds will be used to create awareness and public education campaigns to target future and current recipients.

Amount reimbursed to federal government. Under current law, states must reimburse the federal government for 50 percent of child support payments made above the threshold of $100 for one child and $200 for two or more children. The fiscal note assumes that in FY 2016-17 the DHS must pay the federal government $420,448 in child support collections and in FY 2017-18 the DHS will pay the federal government approximately $864,000.

Backfill to counties. Under the bill, the DHS may reimburse counties for 50 percent of child support collections and the federal government for 50 percent of all collections above the $100 for 1 child and $200 for 2 or more children threshold. In FY 2016-17 these costs are up to $1,028,482 which is prorated for the January 1, 2017, implementation date of the pass-through. In FY 2017-18 these costs are estimated to be up to $2,160,000. If the state does not reimburse counties for 50 percent of child support collections, counties are not obligated to implement the pass-through.

Report to the Joint Budget Committee. The bill also requires the DHS to annually report the amount of child support collected and paid by the counties to eligible families beginning in FY 2017-18. The DHS will need to compile an annual report from county data. This minimal workload increase can be accomplished within existing appropriations.

Local Government Impact

The bill will impact counties in several ways. Once the bill is implemented in FY 2016-17, counties will have a workload increase associated with passing child support collections through to recipients, and to report the amount of child support collected and paid to the DHS.

The bill may reduce revenue for counties passing through child support payments to TANF recipients. At present, counties receive up to 50 percent of the amount of the intercepted child support payments, or approximately $2,056,965 as of FY 2013-14, including the state and county shares of retained child support payments. As shown in Table 2, in FY 2016-17 the bill may result in a $1,028,782 revenue shortfall to the counties, prorated to reflect the January 1, 2017 implementation date. In FY 2017-18, the total potential revenue shortfall to counties is $2,160,000. Potential costs to individual counties will vary by population, caseload, and the average benefits provided in each county.

Table 2. Potential County Revenue Shortfall Under SB 15-012

Revenue Source	**FY 2016-17***	**FY 2017-18**
Estimated Total Remitted Child Support Payments	**$2,056,965**	**$4,320,000**
County Share (20%)	$411,393	$864,000
State Share (30%)	$617,089	$1,296,000
Total Potential Revenue Shortfall to Counties (50%)**	**$1,028,782**	**$2,160,000**

** Costs are prorated to reflect the January 1, 2017 implementation date.*

*** If costs are not replaced by state appropriations, this represents the total potential revenue loss to counties. To the extent that counties choose to implement the full pass-through when the state does not appropriate remitted child support payments to the counties, counties will incur additional costs.*

TABOR Impact

Beginning in FY 2016-17, the bill decreases state revenue from remitted child support payments from non-custodial parents that under current law goes to the state. This will decrease the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

Effective Date

The bill was signed into law by the Governor on May 5, 2015, and became effective on August 5, 2015.

State Appropriations

The bill requires an appropriation of $868,895 in FY 2015-16 to the Department of Human Services, including $315,509 from the General Fund and $553,386 in federal funds, paid from Title IV-D of the Social Security Act.

State and Local Government Contacts

Human Services	Counties	Health Care Policy and Financing
Municipal League	Law	Local Affairs

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9 CCR 2503-6

3.600 COLORADO WORKS PROGRAM [Rev. eff. 9/15/12]

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3.602 APPLICATIONS FOR COLORADO WORKS

3.602.1 Applications [Rev. eff. 1/1/16]

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E. Receiving Applications for Colorado Works Benefits

1. When receiving applications for benefits, county workers shall:

   a. Receive applications;

   b. Review applications for completeness and determine eligibility for assistance;

   c. Make a home visit when required by county policy to determine a county approved setting for a minor applicant; and,

   d. Refer the applicant or participant to other services when appropriate.

2. The application process shall consist of all activity from the date the application is received from the applicant until a determination concerning eligibility is made. Language translation via interpreter shall be provided by the county department of residence as needed. The major steps in the application process shall include:

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   i. The agency shall inform all applicants in writing at the time of application that the agency will use all Social Security Numbers (SSN) of required household members to obtain information available through state identified sources. One interface includes, but is not limited to, the Income and Eligibility Verification System (IEVS) used to obtain information of income, eligibility, and the correct amount of assistance payments. Information gathered through State identified sources may be shared with other assistance programs, other states, the Social Security Administration, the Department of Labor and Employment, and the Child Support ~~Enforcement~~ SERVICES Program; and,

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3.604 ELIGIBILITY CRITERIA FOR COLORADO WORKS PAYMENTS AND SERVICES [Rev. eff. 9/15/12]

3.604.1 Program Verifications [Rev. eff. 7/1/15]

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C. Secondary Verifications

When applicable, secondary verifications for eligibility and program participation, may include, but are not limited to:

1. Verification of relationship of a dependent child to other household members;

2. Verification of good cause, to include good cause for a delay in providing verifications for assistance, good cause for not cooperating with Child Support ~~Enforcement~~ SERVICES, and good cause for not participating in work activities as specified in Section 3.604.2 , L;

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G. Prudent Person Principle

The rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment in executing his/her responsibilities to determine a specified caretaker other than a parent, guardian, legal custodian, or a relative within the fifth (5th) degree.

In this regard, the concept of a prudent person can be helpful. The term refers to reasonable judgments made by an individual in a given case. In making a certification decision, the eligibility worker should ask whether his/her judgment is reasonable, based on experience and knowledge of the program. The eligibility worker is also responsible for exercising reasonable judgment in determining if a given number of individuals applying for Colorado Works fit the Colorado Works requirements of a household/assistance unit specifically the specified caretaker other than a parent, guardian, legal custodian, or relative within the fifth (5th) degree and/or when determining good cause for non-cooperation with work program activities or Child Support ~~Enforcement~~ SERVICES.

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N. General Requirements for Citizenship and Lawful Presence

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5. Verification of Lawful Presence in the United States

Section 24-76.5-103, C.R.S., requires verification of lawful presence in the United States, by the county departments, for applicants of state or local benefits, and federal benefits provided by the Colorado Department of Human Services or by the county departments of human/social services under the supervision of the State Department. All persons eighteen years of age or older must establish lawful presence in the United States prior to receiving public benefits with the exception of those exempt in the list provided in this section. The requirements of this section do not apply to applicants under the age of eighteen (18).

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d. The requirements of this section do not apply to the following applicants, programs and services:

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18) Child support ~~enforcement~~ SERVICES; and,

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O. Colorado Works and Child Support ~~Enforcement~~ SERVICES

1. Cooperation with Child Support ~~Enforcement~~ SERVICES as an Eligibility Requirement

As a condition of continued eligibility, applicants for Colorado Works are statutorily required to assign all rights to child support on their own behalf or on behalf of any other member of the assistance unit for whom the application is made. An applicant's failure to sign and date the application form to avoid assignment of support rights precludes eligibility for the assistance unit. Failure to cooperate with Child Support ~~Enforcement~~ SERVICES at application and/or while receiving basic cash assistance, without good cause, will result in the termination or discontinuation of the Colorado Works basic cash assistance grant.

This assignment is effective for child support due and owing during the period of time the person is receiving public assistance, takes effect upon a determination of eligibility for Colorado Works cash assistance, and remains in effect with respect to the amount of any unpaid support obligation accrued under the assignment that was owed prior to the termination of Colorado Works cash assistance to the participant. The application form shall contain acknowledgement of these provisions and shall be signed and dated by the applicant or participant.

a. Applicants and participants may request that their case not be referred to Child Support ~~Enforcement~~ SERVICES based upon good cause. Claims found to be valid are:

1) Potential physical or emotional harm to a child(ren).

2) Potential physical or emotional harm to a parent or caretaker relative.

3) Pregnancy or birth of a child related to incest or forcible rape.

4) Legal adoption before court or a parent receiving pre-adoption services.

5) Other reasons documented by the county department.

6) Reasons considered to be in the best interest of the child.

7) Other court order.

b. Every applicant and participant shall be given notice and the opportunity to claim that his or her case should not be referred to Child Support ~~Enforcement~~ SERVICES based upon good cause.

c. Determination of such good cause must be in writing and documented in the case file by the county director or designee of the county director.

d. Each case not referred based upon good cause shall be reviewed by the county director or designee yearly.

2. Unreimbursed Public Assistance

Basic Cash Assistance shall be considered part of the Unreimbursed Public Assistance (UPA) as defined in the Child Support ~~Enforcement~~ SERVICES rule manual at Section 6.002 (9 CCR 2504-1).

3. If a family is ineligible for Colorado Works Basic Cash Assistance due to child support income and the income received from child support is either not received or is less than the family need standard, the family may request to be reinstated for assistance in the that month. The income from the current month will be used to determine eligibility and payment prospectively.

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V. Family Violence Option (FVO) Waiver

The federal government allows state Temporary Assistance for Needy Family (TANF) programs to electively participate in the option to waive certain program requirements for individuals who have been identified as victims of family (domestic) violence.

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2. Waiver Provisions

a. The FVO waiver allows a county to exempt program participants from the following standard program elements if it is determined that participation in these elements would unfairly endanger or penalize an individual or their child(ren) as a result of their experience of family violence:

1) Work Activities

2) TANF Time Clock

3) Child Support ~~Enforcement~~ SERVICES

b. The county department shall involve the participant when choosing to invoke a waiver. The individual at their discretion may accept or refuse any waiver offered.

3. Requirements for Counties that Grant FVO Waivers:

When a county department and applicant/participant invoke the Family Violence Option the following are required:

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c. Follow certain processes with regard to all TANF applicants and participants includes:

1) Screen Colorado Works applicants and participants by identifying those who are or have been victims of domestic violence by using the Domestic Violence Screening form.

2) Assess Colorado Works applicants and participants who are identified as a victim of domestic violence by:

a) The nature and extent to which the individual may engage in work activities;

b) The resources and services needed to assist the individual in obtaining safety and self-sufficiency; and,

c) A plan to increase the individual's safety and self-sufficiency.

3) Grant to victims of domestic violence exemptions (or waivers) of certain TANF requirements, good cause based on circumstances that warrant non-participation in program work requirements of this section, non-cooperation with Child Support ~~Enforcement~~ SERVICES as defined in Section 3.604.2, L, or by allowing a program extension. Good cause may also be determined through the use of the prudent person principle standard as specified in Section 3.604.1, G.

a) Good cause for granting an FVO waiver of work activities and/or the 60-month time limit is defined as anything that would potentially endanger or unfairly penalize a participant or the participant's family if he/she participated in the county's standard program/work activity requirements.

b) Good cause for granting a waiver of the child support ~~enforcement~~ SERVICES cooperation requirement is defined as anything that is not in the best interest of the child, e.g., potentially endanger or unfairly penalize the individual or child if the individual cooperated with child support ~~enforcement.~~ SERVICES.

d. Provide certain resources to all TANF applicants and victims of domestic violence. Counties are to make immediate referrals to appropriate services, including: domestic violence services, legal services, health care, emergency shelter, child protection, and law enforcement. Such referrals are to be documented in the individual's case file.

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3.605 INCOME [Rev. eff. 9/15/12]

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3.605.3 Unearned Income [Rev. eff. 7/1/13]

For the purpose of determining eligibility for Colorado Works, the following shall be exempt from consideration as income:

A. Countable Unearned Income

Consideration of Unearned Income Against Program Income Standards

Unless otherwise specified, any unearned income is countable and together with all other countable income of the applicant, recipient, or assistance unit it must be considered against the applicable assistance program need and/or grant standards specified in the regulations covering the different programs.

1. Countable Unearned Income

Countable unearned income includes, but is not limited to the following, as well as other payments from any source, which can be construed to be a gain or benefit to the applicant or recipient and which are not earned income:

a. Veteran's Compensation and pension.

b. Income from rental property is considered as unearned income where the applicant or recipient is not actively managing the property on an average of at least twenty (20) hours a week. Rental income is countable to the extent it exceeds allowable expenses. Allowable expenses are maintenance, taxes, management fees, interest on mortgage, and utilities paid. This shall not include the purchase of the rental property and payments on the principal of loans for rental property.

c. ~~Support and alimony payments including all child support and alimony payments shall be used to determine eligibility. Child support excluding arrears from child support that is returned to families in a county that exercises the option to pass through the state and county share of current child support collection shall be disregarded when determining the Colorado Works grant amount.~~ CURRENT SPOUSAL MAINTENANCE (ALSO REFERRED TO AS ALIMONY).

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2. Periodic Payments

The following types of periodic payments are countable unearned income:

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~~j. Child Support Income - payments made by noncustodial parents for the support of children in a Colorado Works assistance unit shall be considered in accordance with the Colorado Works financial eligibility and payment rules. Child support paid to the family by the Child Support Enforcement Unit shall be considered countable unearned income.~~

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E. Child Support Income

1. ~~Any child support income paid directly to an assistance unit on behalf of a member of the assistance unit that is not turned over to the Child Support Enforcement program shall be counted as unearned income to determine eligibility and payment for the assistance unit.~~ AT INITIAL APPLICATION, CURRENT CHILD SUPPORT PAYMENTS RECEIVED BY THE ASSISTANCE UNIT SHALL BE CONSIDERED INCOME AND COUNTED AGAINST THE NEED STANDARD TO DETERMINE ELIGIBILITY.

2. ~~The county may pay the participant an amount equal to fifty percent (50%) of the state share and one hundred percent (100%) of the county share of the child support collection made by the noncustodial parent. The county shall not consider the child support returned to the family as income for purposes of calculating the basic cash assistance grant~~. ONCE

FOUND ELIGIBLE, CHILD SUPPORT INCOME IS EXCLUDED IN THE BASIC CASH ASSISTANCE GRANT CALCULATION.

3. FOR PURPOSES OF REDETERMINATION (RRR):

   a. INCONSISTENT CHILD SUPPORT PAYMENTS ARE NOT COUNTABLE. CHILD SUPPORT PAYMENTS ARE CONSIDERED CONSISTENT WHEN RECEIVED IN ALL SIX (6) OF THE SIX (6) PREVIOUS MONTHS.

   b. ONCE CONSISTENCY OF PAYMENTS HAS BEEN ESTABLISHED, CURRENT CHILD SUPPORT IS AVERAGED OVER THE PREVIOUS SIX (6) MONTHS. IF THAT AVERAGED AMOUNT IS $500 OR LESS FOR THE HOUSEHOLD, THE CHILD SUPPORT INCOME IS DISREGARDED FOR BOTH ELIGIBILITY AND GRANT CALCULATION. IF THAT AMOUNT IS OVER $500 FOR THE HOUSEHOLD, IT IS COUNTED, IN COMBINATION WITH OTHER INCOME, AGAINST THE NEED STANDARD TO DETERMINE CONTINUED ELIGIBILITY.

   c. IF FOUND ELIGIBLE, THE CHILD SUPPORT INCOME IS DISREGARDED FOR BASIC CASH ASSISTANCE GRANT CALCULATION.

4. CHILD SUPPORT ARREARS ARE EXEMPT INCOME AND ARE NOT USED FOR ELIGIBILITY OR GRANT CALCULATION.

3.606 COLORADO WORKS ELIGIBILITY DETERMINATION FOR PAYMENTS [Eff. 9/15/12]

3.606.1 Eligibility Requirements[Rev. eff. 7/1/13]

A. Countable Gross Income

All countable gross income of the assistance unit~~, including child support and maintenance support~~ received and expected to be received in the month prior to (if available) and in the month of application shall be used to determine eligibility.

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3.606.2 Basic Cash Assistance [Rev. eff. 7/1/13]

A. Payment of Basic Cash Assistance (BCA) Grants
Counties or groups of county departments shall not reduce the basic cash assistance grant, restrict eligibility, or impose sanctions that are inconsistent with state and federal laws or the rules of this Section 3.606.2.

B. Unreimbursed Public Assistance

The basic cash assistance grant shall be considered part of the unreimbursed public assistance (UPA) as defined in the Child Support ~~Enforcement~~ SERVICES rule manual at Section 6.002 (9 CCR 2504-1).

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3.606.4 REPORTING CHANGES AND REDETERMINATION OF ELIGIBILITY [Rev. eff. 8/7/13]

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B. Filing a Redetermination (RRR) to Continue Benefits

Colorado Works participants shall file their redetermination with the county by the filing deadline. A recipient's failure to file a RRR timely may delay the determination of benefits and income disregards will not be applied unless good cause is established. Complete forms received timely must be acted upon by the county department by the last day of the month. Complete forms received after the filing deadline must be acted upon by the tenth (10th) calendar day in the month following the month the redeterminations was due. Participants must have a minimum of five working days from the date they receive the Redetermination packet (RRR) to return the packet to the county.

A redetermination of eligibility shall mean a case review/determination of necessary information and verifications to determine eligibility at least once every twelve months. An interview for Colorado Works basic cash assistance cases shall take place annually with necessary verifications to determine whether the participant continues to be eligible for Colorado Works. To redetermine eligibility a case review must be conducted and necessary verification must be received to determine ongoing eligibility.

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3. Redetermination Process

During the redetermination process, the county worker shall:

a. Conduct an interview;

b. Explain the purpose of the interview and the use of the information supplied by the recipient on the redetermination form and any additional required forms;

c. Inform all recipients in writing at the eligibility redetermination that Social Security Numbers for all recipients will be used to request and exchange information with other agencies as part of the eligibility process, including the Department of Labor and Employment (state wage and unemployment data), Social Security Administration, and Internal Revenue Service (unearned income). IEVS information may also be exchanged with other state or federal agencies administering public assistance programs, including the Department of Labor and Employment, Child Support ~~Enforcement~~ SERVICES and the Social Security Administration;

d. Have the recipient complete the forms or complete the form on behalf of the recipient;

e. Explain the appeal rights to the recipient;

f. Witness the signature of the recipient and sign as a person who helped complete the forms, when applicable;

g. Review documents, verifications, and any other information supplied by the recipient with the recipient in order to obtain clarification if needed. Information requested shall include:

1) Income;

2) Other eligibility factors shall be verified unless satisfactory documentation is in the case record;

3) If reopened, Child Support ~~Enforcement~~ SERVICES and other appropriate units shall be advised.

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L. Reopening and Reinstatements

Cases may be reopened prior to the effective date of closure with good cause and reinstated if closed less than thirty (30) calendar days. If a case closure occurred due to failure to file an RRR, income disregards shall not be applied unless good cause exists.

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2. Reopening in Lieu of an Application- When a recipient requests assistance prior to the effective date of the recipient's discontinuation from assistance, the following procedures shall be followed:

a. A redetermination form or current application form shall be in the case file or completed and signed by the recipient;

b. Income shall be verified;

c. Other eligibility factors shall be verified unless satisfactory documentation is in the case record;

d. Medical documentation shall be obtained unless the certified period of disability covers the current date; and,

e. Eligibility determination shall be completed and appropriate actions shall be taken;

f. If reopened, Child Support ~~Enforcement~~ SERVICES and other appropriate units shall be so advised.

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3.606.8 Diversion, Supportive Services, Other Assistance, and Family Needs Payments [Rev. eff. 7/1/15]

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D. Other Assistance and Family Needs Payments

A county may provide other assistance or a family needs payment including, but not limited to, supportive services and other cash assistance in addition to the basic cash assistance grant. This assistance shall be based on the assessed need of the assistance unit. Any other assistance with a monetary value to the participant shall be included as unreimbursed public assistance (UPA) as

defined in the Child Support ~~Enforcement~~ SERVICES rule manual at Section 6.002 (9 CCR 2504-1) with the exception of those payments that are considered non-assistance such as transportation and/ or child care paid to employed individuals.

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3.609 COLORADO WORKS OVERPAYMENT, CLAIMS, INTENTIONAL PROGRAM VIOLATIONS, AND FRAUD PREVENTION AND DETECTION

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3.609.4 Criteria for Establishing and Recovering AFDC or Colorado Works/ TANF Overpayments [Rev. eff. 9/15/12]

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F. Computation of the Colorado Works Overpayment

Computation of recoveries for Colorado Works is based on the amount received that a recipient was originally deemed eligible for. All earned and unearned income received by the assistance unit and any child support payments received by the county Child Support ~~Enforcement~~ SERVICES office is taken into consideration in the computation.

In the instances where the overpayment is the direct result of actions tied to the determination of IPV and/or fraud, which resulted in receipt of benefits in error, or benefits received that the recipient was not eligible to receive shall be recovered.

G. Procedure for Computing Monthly Over/Under Payments

The calculation of overpayment shall begin in the month that the overpayment occurred. Claims as a result of the overpayment shall be established within ten (10) calendar days following adverse action notification unless otherwise specified and documented by the county department in the case file.

1. Determine the “as paid” Colorado Works amount by:

    a. Starting with the amount of the payment;

    b. Add any withholding amounts;

    c. Subtract child support payments ~~used~~ RETAINED BY CHILD SUPPORT SERVICES to reimburse the payment;

    d. The result is the “as paid” amount, also known as the “monthly non-reimbursed public assistance” (UPA).

2. Determine the “correct” payment by:

    a. Determining the need standard for the correct assistance unit for the month;

    b. Subtract all earned income (without employment disregards when the income is not reported timely); and,

c. Subtract the result from the amount of the payment plus any withholdings; and,

d. Calculate partial month payments utilizing the table found in Section, 3.606.2, H.

3. UPA and/or arrears shall not be used to offset and/or pay client error, fraud, or IPV overpayments.

4. Compare the total “monthly UPA” to this “correct” payment amount and collect as an overpayment the lesser of the two. The arithmetic result may indicate an underpayment.

The overpayment amount is reported to the Automated Child Support Enforcement System (ACSES) and reduces the total case UPA once the claim is paid. In the event the overpayment amount is less than the total case UPA, the recovery amount is the lesser of the two.

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3.609.94 Protections to the Individual [Rev. eff. 9/15/12]

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D. Disclosure of Confidential Information

1. No one outside the county department shall have access to records of the department except for individuals executing Income and Eligibility Verification System (IEVS); Child Support ~~Enforcement~~ SERVICES officials; federal and state auditors and private auditors for the county; and the applicant/recipient of public assistance. These individuals shall have access only for purposes necessary for the administration of the program. The following individuals shall have access to the records of the department if one of the following conditions is met:

a. The applicant or recipient is notified and his or her prior permission for release of information is obtained unless the information is to be used to verify income, eligibility or the amount of medical assistance payment under administration of the Income and Eligibility Verification System (IEVS). If, because of an emergency situation in which the applicant/recipient is physically or mentally incapacitated to the extent that he or she cannot sign the release form, and time does not permit obtaining an applicant's or recipient's consent prior to release of information, the county department must notify the applicant or recipient within 10+1 calendar days after supplying the information.

The notification shall include the name and address of the agency which requested the information, the reason the information was requested and a summary of the information released. If the applicant or recipient does not have a telephone or cannot be contacted within 10+1 calendar days, the county department must send written notification containing the required information within three (3) working days from the date the information was released.

b. A District Attorney requests information for the purpose of either prosecution for fraud or tracing a parent who has deserted a child.

c. Verified information obtained from the Internal Revenue Service through the Income and Eligibility Verification System may be provided only to persons or agencies directly connected with the administration of the Child Support ~~Enforcement~~ SERVICES program (if administered by an agency outside of the county department), Department of Labor and Employment, the Social Security Administration and other agencies in the state when necessary for the administration of the AFDC, Medicaid, Food Assistance or other state or federally funded means tested assistance programs, or the unemployment insurance program. County departments shall not release information regarding applicants or recipients to law enforcement agencies unless a search warrant is received by the county department.

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Title of Proposed Rule:	Revisions to Colorado Works Rules for SB15-012 Pass Through Project		
CDHS Tracking #:	16-6-28-1		
Revising CCR #s:	9 CCR 2503-6 Volume 3		
Office, Division, & Program:	Rule Author: Amber Athey	Phone: 303-866-2928	
OES, Employment and Benefits Division, Colorado Works Program		E-Mail: amber.athey@state.co.us	

STATEMENT OF BASIS AND PURPOSE

With the passage of Senate Bill 15-012, Colorado will be implementing a Pass-Through for child support collected to those who receive Temporary Aid for Needy Families (TANF) or Colorado Works, as it is known in Colorado, Basic Cash Assistance (BCA). Previously, the state intercepted all child support that was owed to Colorado Works customers. Once the bill is implemented, Colorado will be the only state in the country to have a full Pass-Through of all monthly current child support collected each month to Colorado Works customers who receive Basic Cash Assistance. This change will be implemented in 2017 as it has required extensive preparation and significant changes to the Automated Child Support Enforcement System (ACSES) and the Colorado Benefits Management System (CBMS).

The child support Pass-Through is intended to enable Colorado Works customers to receive child support payments made by a non-custodial parent in addition to the financial support they receive through Colorado Works. The Pass-Through will allow Colorado Works customers to receive both the Colorado Works grant and the child support payment. The grant amount will not be impacted based on the child support amount received, resulting in an overall increase in the family's monthly income.

Authority for Rule:

State Board Authority: 26-1-107, C.R.S. (2016) - State Board to promulgate rules; 26-1-109, C.R.S. (2016) - state department rules to coordinate with federal programs; 26-1-111, C.R.S. (2016) - state department to promulgate rules for public assistance and welfare activities.

Program Authority: 26-2-703 (19), C.R.S. (2016) - TANF, 26-13-108, C.R.S. (2016)-state and county share of child support collections 26-2-111, C.R.S. (2016)-Eligibility for public assistance-Colorado works program, 26-2-108, C.R.S. (2016) - Granting of assistance payments and social services.

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

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

County Human Services Directors Association, The Legal Center, All Families Deserve a Chance (AFDC) Coalition, Office of Economic Security (OES) Sub-PAC, County Child Support Services Administrators, County Colorado Works Administrators, Regional Partners—Federal Office of Child Support Enforcement, Colorado Department of Health Care Policy & Financing, Colorado Department of Human Services Food and Energy Assistance Division, Colorado Center on Law & Policy, Colorado Legal Services, and the Fatherhood Program.

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "all caps", and changes made between initial review and final adoption are in brackets.]

Attachments:
Regulatory Analysis
Overview of Proposed Rule
Stakeholder Comment Summary
Senate Bill 15-012 Fiscal Note

Title of Proposed Rule:	Revisions to Colorado Works Rules for SB15-012 Pass Through Project	
CDHS Tracking #:	16-6-28-1	
Revising CCR #s:	9 CCR 2503-6 Volume 3	
Office, Division, & Program:	Rule Author: Amber Athey	Phone: 303-866-2928
OES, Employment and Benefits Division, Colorado Works Program		E-Mail: amber.athey@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule:

All custodial parents receiving Colorado Works and noncustodial parents (NCPs), as the custodial parents will now be able to receive all current child support paid by the NCPs, rather than that support be retained by the State. This will not impact the State collecting arrear payments made toward child support.

2. Describe the qualitative and quantitative impact:

The projected impacts of this policy include the benefits associated with additional household income that accrue to individual families and larger communities, as well as with improved family relationships. Child support payments matter tremendously to poor families; the Congressional Research Service reported that in 2013, among poor families who received child support, those payments represented an average of 49% of their yearly income[1]. The Urban Institute estimates that every dollar of child support collected by the family reduces public assistance costs by 13 cents.

Passing funds through appears to increase both the likelihood that any payment is made and the amount of individual payments received. Research conducted by the Urban Institute[2] and the Institute for Research on Poverty[3] has found that by passing through the full amount of current support to the child, the percentage of cases with payments increased by 1.8 to 2.7 percentage points in the first year, and by about 3 percentage points at three years for both studies. The same studies found that the amount of child support payments increased by 5.6 to 23 percent in year one and by 11 to 12 percent in year three.

In 2014 and 2015, on average 570 Colorado Works cases per month received a child support payment toward current child support for an average of $133.45. Annually and at the state level, this rolls up to a total of $6,295,390 in 2012 for 7,000 families. This policy will pass those funds on to the families on whose behalf they were received.

Additional benefits to families we anticipate resulting from this policy include:
1. Possible reduction in cases referred to child welfare,[4]
2. Increased paternity establishment,[5]
3. Improved child outcomes such as educational attainment and reduction in behavioral problems[6 & 7]
4. More parental involvement in children's lives[8]

[1] Child Support: An Overview of Census Bureau Data on Recipients. Congressional Research Service. March 1, 2016. https://www.fas.org/sgp/crs/misc/RS22499.pdf
[2] Lippold, Kyle, et al. (November 2010). *Evaluation of the $150 Child Support Pass-Through and Disregard Policy in the District of Columbia.* Urban Institute, DC: Washington.
[3] Meyer, Daniel R., and Maria Cancian. (2001.)*W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment*. Report to the Wisconsin Department of Workforce Development. University of Wisconsin–Madison, Institute for Research on Poverty.
[4] Cancian, Maria; Slack, Kristen; and Young, Mi. (August 2010). "The Effect of Family Income on Risk of Child Maltreatment," *Institute Research on Poverty Discussion Paper* 1385-10, University of Wisconsin.
[5] *W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment*.(2001) Ibid.
[6] Involving Non-Resident Fathers In Children's Learning. A *Father Matter* Report, Chapter 1: Why Fathers Matter. US Department of Health and Human Services, September 2000.
[7] Ibid.
[8] Seltzer, J.A., McLanahan, S., Hanson, T. (March 1997) "*Will Child Support Enforcement Increase Father-Child Contact and Parental Conflict after Separation?"*

Statewide data suggests that child support payments to Colorado Works families are inconsistent and infrequent. To reduce administrative burdens for workers and customers, child support payments will be considered every six months at redetermination. Any support under the threshold will not be counted.

Senate Bill 15-012 states that the General Assembly may annually appropriate moneys to reimburse the counties fifty percent of the child support collections that are paid to families through the Pass-Through to backfill their loss of revenue and the Federal Government for its share of the Pass-Through. In any fiscal year in which the General Assembly does not appropriate the necessary amount of moneys to cover these costs of the Pass-Through, the ACSES and the CBMS must be programmed to not pass through the collections. That is part of the Pass-Through design that is being developed.

3. Fiscal Impact:

State Fiscal Impact:
Funding was received through the legislation fiscal note for Senate Bill 15-012 to include operational expenses of 1) multiple system changes, 2) contract personnel, 3) training, and 4) outreach.

County Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the County level.

Federal Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the Federal level.

Other Fiscal Impact:
None because most barriers are addressed with fiscal note and Waiver commitment.

4. Data Description:

Department used an outside vendor, The Center for Policy Research, to conduct analysis and collected research findings on Pass-Through done in other States. Using Colorado data, they applied findings to forecast cause and effect on possible implications of the Pass-Through when applied to the current caseload.

5. Alternatives to this Rule-making:

No alternative because this is based on statutorily required changes to implement the legislative directive given in S.B. 15-012.

Title of Proposed Rule: Revisions to Colorado Works Rules for SB15-012 Pass Through Project
CDHS Tracking #: 16-6-28-1
Revising CCR #s: 9 CCR 2503-6 Volume 3

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program
Rule Author: Amber Athey
Phone: 303-866-2928
E-Mail: amber.athey@state.co.us

OVERVIEW OF PROPOSED RULE

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

Section Numbers	Current Regulation	Proposed Change	Stakeholder Comment	
3.604.2 O 1	*Assignment of all child support during duration of grant*	*Allows the current child support to be passed through to family*	***X Yes***	***No***
3.605.3 1 c and j 3.605.3 E 1	*Child support will be considered countable income*	*At intake, child support will be compared against the needs standards. If under the needs standards, child support will not be used in determining grant amount ongoing. At redetermination, if child support for household unit is greater than $500.00 per month over 6 consecutive months, then it will be considered against the needs standard to see if the assistance unit remains eligible.*	***X Yes***	***No***
3.605.3 E 2	*County pass through is an option*	*No longer an option with 100% of current support paid to the participant with no county retained collection.*	***X Yes***	***No***
3.609.4 F 3.609.4 G	*Criteria for establishing/recovering TANF overpayments when child support is received.*	*Will no longer be using child support received during the grant in computation for recovery nor subtracting out those payments to reimburse overpayments*	***X Yes***	***No***
3.602.1-3.609.94.D.1.c (multiple sections)	*Child Support Enforcement*	*Child Support Services*	***X Yes***	***No***

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STAKEHOLDER COMMENT SUMMARY

DEVELOPMENT

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):
Child Support Pass Through Steering Committee, Child Support Pass Through Policy Subcommittee, Colorado Department of Human Services Food and Energy Assistance Division, and the Colorado Department of Human Services Child Support Services Division

THIS RULE-MAKING PACKAGE

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:
County Human Services Directors Association, The Legal Center, All Families Deserve a Chance (AFDC) Coalition, Office of Economic Security (OES) Sub-PAC, County Child Support Services Administrators, County Colorado Works Administrators, Regional Partners—Federal Office of Child Support Enforcement, Colorado Department of Health Care Policy & Financing, Colorado Department of Human Services Food and Energy Assistance Division, Colorado Center on Law & Policy, Colorado Legal Services, and the Fatherhood Program

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

[X] Yes [ ] No

If yes, who was contacted and what was their input? Marivel Klueckman with Colorado Department of Health Care Policy and Financing was contacted. No input received.

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

[X] Yes [ ] No

Date presented August 4, 2016.

What issues were raised? None

If not presented, explain why.

Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

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

Stakeholder Feedback/Questions:

El Paso County Department of Human Services: Sharon Eddy

Question:
Will tax intercepts be passed through? My understanding is that the six months of child support will be averaged. If a household receives only $150 for five of those months, but then receives a tax intercept of $3000 in the 6th month, will the HH be ineligible? Would they just be ineligible the first month of RRR, and then be eligible to reapply the following month? Or would there be POI?

Response:
No, tax intercepts will not be passed through at this time. Your understanding is correct that six months of current monthly child support will be averaged after it has been determined there are consistent payments. To modify your example, if a household receives only $150 for five of those months, but then receives a lump sum payment of current monthly support (not tax intercept) of $3000 in the 6th month, the average would be $625 per month of income ($150 x 5 + $3000/6 months) that would be counted at RRR. Keep in mind that the monthly current support due in the example would be at least $3000 for the entire amount to be included in the average. The household could re-apply and the county department would use the regular intake eligibility requirements, comparing all income to the Need Standard for the family size. There would be no Period of Ineligibility (POI) applicable.

Weld County Department of Human Services: Jamie Ulrich

Weld County has the following feedback regarding the proposed rules/legislation:

Comment:
1. There are general concerns about the legislation itself- it is unclear how this is going to impact the counties fiscally, specifically if there is an increase in BCA being paid out. This could result in fewer resources for counties to spend on employment activities and supportive services.

Response:
Thank you for this input. The State will be closely monitoring the fiscal impacts of the Pass Through. Please review the fiscal note attached that has a broader financial analysis to better illustrate the counties fiscal impact. The Child Support Pass Through Steering Committee, Policy Subcommittee, in conjunction with the State Policy team reviewed data related to this concern. Intake eligibility standards are not changing with the implementation of the Pass Through, so it is anticipated that there would be a minimal increase in Basic cash Assistance or BCA being paid out. Counties are encouraged to continue to increase the support provided through employment activities and services through the county block grant. With the elimination of the half-sibling rule, the family size may increase which could lead to an increase in the need standard so the Employment and Benefits Division gathered additional information and based on feedback received, has decided to not move forward rule or system modifications impacting the half-sibling rule.

Comment:
2. There are still some unknowns surrounding how the pass through will affect other benefits, such as Housing and Food Assistance.

Response:
Eligibility and payment for other programs may be impacted. We do not anticipate rules changing for other programs due to implementation of the Pass Through, therefore if child support is now countable for the

program, it will likely remain countable. Food Assistance would be impacted by a reduction of the amount of benefits the household would receive by 3 to 1, meaning for every $3 dollar of support received it would affect the grant by $1 and would impact eligibility about 2 months after receipt of the child support payment.

Comment:
3. The workload impact on the Child Support Services side will be increased, due to the increase in customer inquiries and payment processing; as well as information sharing with Colorado Works staff (who are unable to view ACSES due to security restrictions).

Response:
The Child Support Pass Through Steering Committee, Communication and Training subcommittees are developing messaging to address the impact on staff and prepare them to handle questions efficiently as well as providing education and explanation for customers. Payment processing will be automated through the ACSES and CBMS systems so there are anticipated minimal workload increases.

Weld County specific concerns regarding the Colorado Works rules include:

Question:
1. Please explain where the language and definition of "inconsistent child support payments" (average of over $500 in combination with other income over the previous 6 months) for redetermination come from. It appears that the statute states that payments are not to be considered as income in determining eligibility.

Response:
The Child Support Pass Through Steering Committee, Policy Subcommittee, in conjunction with the State Policy team defined the term "inconsistent child support payments" by evaluating data on the current Colorado Works caseload. The groups found that the $500 threshold, in combination with the consistency test, would allow the majority of families to continue in the program, avoiding the cliff effect, reducing churn, reducing administrative burdens and staying consistent with current eligibility requirements set through the Colorado Works certification period. Also, to clarify, Statute revised in C.R.S 26-2-108 (II) (A) states:
"Such payments shall not be considered income for purposes of calculating a recipient's basic cash assistance grant pursuant to part 7 of this article. *However, such payments, with applicable disregards,* ***shall be considered income*** *for purposes of determining eligibility*." (emphasis added)

Question:
2. Please explain why child support arrears are considered as exempt income and not used for eligibility calculation.

Response:
Child support arrears are considered a debt and are not part of the new Pass Through changes. Rules around child support arrears are not changing.

Arapahoe County Department of Human Services: Pamela Olesen

Question:
Can you please refresh my memory; why did we specifically state $500 as the threshold for redeterminations?

Response:
The Child Support Pass Through Steering Committee, Policy subcommittee, in conjunction with the State Policy team evaluated data on the current Colorado Works caseload and found that the $500 threshold, in combination with the consistency test, would allow the majority of families to continue in the program, avoiding

the cliff effect, reducing churn, reducing administrative burdens and staying consistent with current eligibility requirements set through the Colorado Works certification period.

Question:
Also, I was looking at this language for new applications with my Deputy Director and the question came up; why do we average for an RRR but not for a new application? CCAP has recently re-written rules (they may still be in proposed status) around child support income and would it be beneficial to align them? This is how the proposed rule reads; or at least had when the rewrite committee submitted it.
h. Irregular child support income, NOT INCLUDING LUMP SUM PAYMENTS, MAY must be averaged over a period of time up to twelve (12) months in order to calculate household income.
1) NON-RECURRING LUMP SUM PAYMENTS, INCLUDING LUMP SUM CHILD SUPPORT PAYMENTS, MAY BE INCLUDED AS INCOME IN THE MONTH RECEIVED OR AVERAGED OVER A TWELVE (12) MONTH PERIOD, WHICHEVER IS MOST BENEFICIAL FOR THE CLIENT.

Response:
The Employment and Benefits Division is not changing intake eligibility with the implementation of Child Support Pass Through. Child Support payments being received by a family at application would not be considered a "passed through" payment, and would be considered either direct receipt or current support. Colorado Works requirements do not align with CCCAP rules now. The new proposed rules for CCCAP do not contradict Colorado Works rules either but leave it to the staff to do what is most beneficial for the client.

Jefferson County Department of Human Services: Alvin Tafoya

Question:
Do you have a document which identifies the financial impact to counties regarding these changes or the cost that the state "may" assume as a result of these changes. I know one was created some time ago, but I am unable to locate that information and our director would like an updated version to ensure that the state budget appropriates said funding to support this endeavor.

Response:
There is not a specific document identifying the county fiscal impact as there is no anticipated impact to the counties related to the Pass Through. The General Assembly may annually appropriate funds to the State to reimburse the counties. If the General Assembly does not appropriate the funds necessary to reimburse counties for their share of retained child support payments, counties are not required to implement the Child Support Pass Through to Colorado Works recipients but may choose to do so using county revenues. See the attached document on the Fiscal Note. If you are referring to the IRS tax intercept document, which the State provided a cost estimate for, that issue has not been decided and may be considered through a separate rule proposal and system change. The current Pass Through proposed rules and system changes do not include the tax interception component.

Mesa County DHS: Michelle Trujillo

Question:
Should there be a second set of rules that would be used in the event that pass through is NOT funded?

Response:
The proposed rule changes are not dependent on the pass through being funded. It is the intent of policy to continue to exempt child support income. Therefore, a second set of rules is not needed. However, if it comes to having to turn this off, we will have enough time to react from one fiscal year to the next.

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program
Rule Author: Amber Athey
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Question:
Should we say something about period of intent when talking about child support? For example, if child support comes in January, February, and March, then in April it isn't paid until April 30th, so to shows up in CBMS May, then the NCP pays their regular payment in May and June. Will CBMS know that one of the two May payments was for April to count the six consecutive months?

Response:
The date of receipt will be used by CBMS, not the period of intent, when looking at consistency of payments. CBMS will also use the date a RRR is processed to determine the look back period. For example, a RRR due for 8/31 but processed on 7/25, would look at payments received January through June. If that same RRR was processed on 8/5, the look back period would be February through July.

Question:
Should we say "effective in the seventh month? I feel we need to state specifically in rule the effective month to begin counting the child support income.

Response:
With the RRR being done early or later (as described in the previous response), stating the seventh month could add more confusion. By defining 6 months of payments, the intent is not to delay the decision making when determining if countable or not.

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program
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Senate Bill 15-012 Fiscal Note:

Colorado Legislative Council Staff Fiscal Note

FINAL
FISCAL NOTE

Drafting Number:	LLS 15-0101	**Date:**	October 8, 2015
	Sen. Kefalas	**Bill Status:**	Signed into Law
Prime Sponsor(s):	Rep. Pettersen	**Fiscal Analyst:**	Lauren Schreier (303-866-3523)

BILL TOPIC: COLORADO WORKS PASS-THROUGH CHILD SUPPORT PAYMENT

Fiscal Impact Summary*	**FY 2015-16**	**FY 2016-17**	**FY 2017-18**
State Revenue		**($2,056,965)**	**($4,320,000)**
Cash Funds		(2,056,965)	(4,320,000)
State Expenditures	**$868,895**	**$2,779,531**	**$3,090,566**
General Fund	315,509	1,967,482	3,057,616
Federal Funds	553,386	812,049	32,950
Appropriation Required: $868,895 - Department of Human Services (FY 2015-16).			

** This summary shows the bill's changes from current law for each fiscal year. Parentheses indicate a reduction.*

Summary of Legislation

Current law requires that an individual eligible for Temporary Assistance for Needy Families (TANF) in the Colorado Works Program assign to the Department of Human Services (DHS) his or her right to receive child support payments. The state may retain all child support payment income as a reimbursement for TANF assistance paid.

Effective January 1, 2017, the bill allows the state and counties to disregard child support income a TANF recipient may be eligible to receive and pass-through such income to the TANF recipient. Under the bill, any child support income a TANF recipient receives will not be considered income when calculating the basic cash assistance grant an individual may receive. Such payments, with applicable disregards, will be considered income for the purposes of determining eligibility. The General Assembly may annually appropriate moneys to the DHS to reimburse the counties for 50 percent of child support collections and the federal government for its share of child support collections. If the General Assembly does not appropriate the moneys necessary to reimburse counties and the federal government for their respective shares of retained child support payments, counties are not required to implement the child support pass-through to TANF recipients but may choose to do so using county revenues. The DHS must annually report to the Joint Budget Committee the amount of child support collected and paid by the counties to families eligible for TANF.

Office, Division, & Program: OES, Employment and Benefits Division, Colorado Works Program
Rule Author: Amber Athey
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Background

The Colorado Works Program, Colorado's TANF program, is operated by county departments of human services and overseen by the state Department of Human Services. The program provides financial assistance to aid eligible families in reaching economic self sufficiency through cash assistance and other benefits, including food stamps. Beyond meeting basic program guidelines, all 64 counties have discretion in designing their TANF programs to best meet local needs. Adults need to reapply for benefits every six months and, with limited exceptions, may receive up to 60 months of benefits in their lifetime.

The Automated Child Support Enforcement System (ACSES) tracks certain child support payments in the state. The ACSES is administered by the DHS and each county uses the ACSES system to track payments received and owed to parents. The Colorado Benefits Management System (CBMS) has been the statewide benefits management system since 2004. The CBMS allows qualified citizens to apply for medical, food, and monetary assistance.

Assumptions

This fiscal note makes the following assumptions:

- information technology updates are required under the bill and will take up to two years to implement;
- state revenue in the form of remitted child support payments from non-custodial parents will be reduced by about $2,056,965 in FY 2016-17, plus five percent inflation per year;
- child support payment collections will increase by five percent a year;
- revenue reductions are shown as an increase in state and local expenditures as the fiscal note assumes benefits for TANF recipients will not change as a result of SB 15-012; and
- federal funds will be paid from Title IV-D of the Social Security Act.

State Revenue

The bill is estimated to reduce state cash fund revenue by $2,056,965 in FY 2016-17 and by $4,320,000 in FY 2017-18. Currently, the state retains some of the child support payments received on behalf of TANF recipients and the money is shared between the federal, state, and county governments. This fiscal note assumes that revenue losses will occur after the January 1, 2017, implementation date. As a result, the fiscal note assumes no change in state revenues for FY 2015-16.

State Expenditures

The bill increases costs in the DHS by $868,965 in FY 2015-16 and by $2,779,531 in FY 2016-17. Of the $868,965 in FY 2015-16 costs, $315,509 is from the General Fund and $553,386 is from federal funds. These costs are associated with information technology enhancements, contract staff to oversee the project, and training for counties concerning changes under the bill. After the pass-through is implemented on January 1, 2017, the bill increases costs by up to $1,515,496 in FY 2016-17 and up to $3,024,000 in FY 2017-18, primarily to replace the revenue shortfall to counties and the federal government after implementation of the child support pass-through. Table 1 outlines these costs.

Table 1. Expenditures Under SB 15-012

Cost Components	**FY 2015-16**	**FY 2016-**	**FY 2017-**
Information Technology Costs	$792,921	$1,149,366	$0
Implementation Contractors	$75,974	131,235	66,566
Public Outreach and Education	0	50,000	0
Amount Reimbursed to Federal Government		420,448	864,000
Backfill to Counties*	0	1,028,482	2,160,000
TOTAL	**$868,895**	**$2,779,531**	**$3,090,566**
General Fund	315,509	**2,050,426**	**3,057,616**
Federal Funds	553,386	**729,105**	**32,950**

** In FY 2016-17 TANF Replacement costs are prorated to reflect the January 1, 2017, implementation date.*

Information technology costs. In FY 2015-16 and FY 2016-17 the bill requires the DHS to update both the Automated Child Support Enforcement System (ACSES) and the Colorado Benefits Management System (CBMS). These costs are based on historical experience from system changes of similar scope from the Office of Information Technology (OIT). At present, both the ACSES and the CBMS lack the infrastructure required to administer and track child support payments and TANF payments in an integrated manner.

Implementation contractors. The DHS will require contractors with expertise in benefit payment systems to assist in program development, programming changes, rule development and modification, updating existing policies and procedures, and technical assistance to state and county staff to implement changes under the bill.

Public outreach and education. The DHS must conduct public outreach and education to alert potential and current recipients to upcoming policy changes under the bill in FY 2016-17. The funds will be used to create awareness and public education campaigns to target future and current recipients.

Amount reimbursed to federal government. Under current law, states must reimburse the federal government for 50 percent of child support payments made above the threshold of $100 for one child and $200 for two or more children. The fiscal note assumes that in FY 2016-17 the DHS must pay the federal government $420,448 in child support collections and in FY 2017-18 the DHS will pay the federal government approximately $864,000.

Backfill to counties. Under the bill, the DHS may reimburse counties for 50 percent of child support collections and the federal government for 50 percent of all collections above the $100 for 1 child and $200 for 2 or more children threshold. In FY 2016-17 these costs are up to $1,028,482 which is prorated for the January 1, 2017, implementation date of the pass-through. In FY 2017-18 these costs are estimated to be up to $2,160,000. If the state does not reimburse counties for 50 percent of child support collections, counties are not obligated to implement the pass-through.

Report to the Joint Budget Committee. The bill also requires the DHS to annually report the amount of child support collected and paid by the counties to eligible families beginning in FY 2017-18. The DHS will need to compile an annual report from county data. This minimal workload increase can be accomplished within existing appropriations.

Local Government Impact

The bill will impact counties in several ways. Once the bill is implemented in FY 2016-17, counties will have a workload increase associated with passing child support collections through to recipients, and to report the amount of child support collected and paid to the DHS.

The bill may reduce revenue for counties passing through child support payments to TANF recipients. At present, counties receive up to 50 percent of the amount of the intercepted child support payments, or approximately $2,056,965 as of FY 2013-14, including the state and county shares of retained child support payments. As shown in Table 2, in FY 2016-17 the bill may result in a $1,028,782 revenue shortfall to the counties, prorated to reflect the January 1, 2017 implementation date. In FY 2017-18, the total potential revenue shortfall to counties is $2,160,000. Potential costs to individual counties will vary by population, caseload, and the average benefits provided in each county.

Table 2. Potential County Revenue Shortfall Under SB 15-012

Revenue Source	**FY 2016-17***	**FY 2017-18**
Estimated Total Remitted Child Support Payments	**$2,056,965**	**$4,320,000**
County Share (20%)	$411,393	$864,000
State Share (30%)	$617,089	$1,296,000
Total Potential Revenue Shortfall to Counties (50%)**	**$1,028,782**	**$2,160,000**

** Costs are prorated to reflect the January 1, 2017 implementation date.*

*** If costs are not replaced by state appropriations, this represents the total potential revenue loss to counties. To the extent that counties choose to implement the full pass-through when the state does not appropriate remitted child support payments to the counties, counties will incur additional costs.*

TABOR Impact

Beginning in FY 2016-17, the bill decreases state revenue from remitted child support payments from non-custodial parents that under current law goes to the state. This will decrease the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

Effective Date

The bill was signed into law by the Governor on May 5, 2015, and became effective on August 5, 2015.

State Appropriations

The bill requires an appropriation of $868,895 in FY 2015-16 to the Department of Human Services, including $315,509 from the General Fund and $553,386 in federal funds, paid from Title IV-D of the Social Security Act.

State and Local Government Contacts

Human Services	Counties	Health Care Policy and Financing
Municipal League	Law	Local Affairs

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9 CCR 2503-6

3.600 COLORADO WORKS PROGRAM [Rev. eff. 9/15/12]

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3.602 APPLICATIONS FOR COLORADO WORKS

3.602.1 Applications [Rev. eff. 1/1/16]

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E. Receiving Applications for Colorado Works Benefits

1. When receiving applications for benefits, county workers shall:

   a. Receive applications;

   b. Review applications for completeness and determine eligibility for assistance;

   c. Make a home visit when required by county policy to determine a county approved setting for a minor applicant; and,

   d. Refer the applicant or participant to other services when appropriate.

2. The application process shall consist of all activity from the date the application is received from the applicant until a determination concerning eligibility is made. Language translation via interpreter shall be provided by the county department of residence as needed. The major steps in the application process shall include:

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   i. The agency shall inform all applicants in writing at the time of application that the agency will use all Social Security Numbers (SSN) of required household members to obtain information available through state identified sources. One interface includes, but is not limited to, the Income and Eligibility Verification System (IEVS) used to obtain information of income, eligibility, and the correct amount of assistance payments. Information gathered through State identified sources may be shared with other assistance programs, other states, the Social Security Administration, the Department of Labor and Employment, and the Child Support ~~Enforcement~~ SERVICES Program; and,

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3.604 ELIGIBILITY CRITERIA FOR COLORADO WORKS PAYMENTS AND SERVICES [Rev. eff. 9/15/12]

3.604.1 Program Verifications [Rev. eff. 7/1/15]

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C. Secondary Verifications

When applicable, secondary verifications for eligibility and program participation, may include, but are not limited to:

1. Verification of relationship of a dependent child to other household members;

2. Verification of good cause, to include good cause for a delay in providing verifications for assistance, good cause for not cooperating with Child Support ~~Enforcement~~ SERVICES, and good cause for not participating in work activities as specified in Section 3.604.2 , L;

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G. Prudent Person Principle

The rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment in executing his/her responsibilities to determine a specified caretaker other than a parent, guardian, legal custodian, or a relative within the fifth (5th) degree.

In this regard, the concept of a prudent person can be helpful. The term refers to reasonable judgments made by an individual in a given case. In making a certification decision, the eligibility worker should ask whether his/her judgment is reasonable, based on experience and knowledge of the program. The eligibility worker is also responsible for exercising reasonable judgment in determining if a given number of individuals applying for Colorado Works fit the Colorado Works requirements of a household/assistance unit specifically the specified caretaker other than a parent, guardian, legal custodian, or relative within the fifth (5th) degree and/or when determining good cause for non-cooperation with work program activities or Child Support ~~Enforcement~~ SERVICES.

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N. General Requirements for Citizenship and Lawful Presence

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5. Verification of Lawful Presence in the United States

Section 24-76.5-103, C.R.S., requires verification of lawful presence in the United States, by the county departments, for applicants of state or local benefits, and federal benefits provided by the Colorado Department of Human Services or by the county departments of human/social services under the supervision of the State Department. All persons eighteen years of age or older must establish lawful presence in the United States prior to receiving public benefits with the exception of those exempt in the list provided in this section. The requirements of this section do not apply to applicants under the age of eighteen (18).

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d. The requirements of this section do not apply to the following applicants, programs and services:

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18) Child support ~~enforcement~~ SERVICES; and,

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O. Colorado Works and Child Support ~~Enforcement~~ SERVICES

1. Cooperation with Child Support ~~Enforcement~~ SERVICES as an Eligibility Requirement

As a condition of continued eligibility, applicants for Colorado Works are statutorily required to assign all rights to child support on their own behalf or on behalf of any other member of the assistance unit for whom the application is made. An applicant's failure to sign and date the application form to avoid assignment of support rights precludes eligibility for the assistance unit. Failure to cooperate with Child Support ~~Enforcement~~ SERVICES at application and/or while receiving basic cash assistance, without good cause, will result in the termination or discontinuation of the Colorado Works basic cash assistance grant.

This assignment is effective for child support due and owing during the period of time the person is receiving public assistance, takes effect upon a determination of eligibility for Colorado Works cash assistance, and remains in effect with respect to the amount of any unpaid support obligation accrued under the assignment that was owed prior to the termination of Colorado Works cash assistance to the participant. The application form shall contain acknowledgement of these provisions and shall be signed and dated by the applicant or participant.

a. Applicants and participants may request that their case not be referred to Child Support ~~Enforcement~~ SERVICES based upon good cause. Claims found to be valid are:

1) Potential physical or emotional harm to a child(ren).

2) Potential physical or emotional harm to a parent or caretaker relative.

3) Pregnancy or birth of a child related to incest or forcible rape.

4) Legal adoption before court or a parent receiving pre-adoption services.

5) Other reasons documented by the county department.

6) Reasons considered to be in the best interest of the child.

7) Other court order.

b. Every applicant and participant shall be given notice and the opportunity to claim that his or her case should not be referred to Child Support ~~Enforcement~~ SERVICES based upon good cause.

c. Determination of such good cause must be in writing and documented in the case file by the county director or designee of the county director.

d. Each case not referred based upon good cause shall be reviewed by the county director or designee yearly.

2. Unreimbursed Public Assistance

Basic Cash Assistance shall be considered part of the Unreimbursed Public Assistance (UPA) as defined in the Child Support ~~Enforcement~~ SERVICES rule manual at Section 6.002 (9 CCR 2504-1).

3. If a family is ineligible for Colorado Works Basic Cash Assistance due to child support income and the income received from child support is either not received or is less than the family need standard, the family may request to be reinstated for assistance in the that month. The income from the current month will be used to determine eligibility and payment prospectively.

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V. Family Violence Option (FVO) Waiver

The federal government allows state Temporary Assistance for Needy Family (TANF) programs to electively participate in the option to waive certain program requirements for individuals who have been identified as victims of family (domestic) violence.

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2. Waiver Provisions

a. The FVO waiver allows a county to exempt program participants from the following standard program elements if it is determined that participation in these elements would unfairly endanger or penalize an individual or their child(ren) as a result of their experience of family violence:

1) Work Activities

2) TANF Time Clock

3) Child Support ~~Enforcement~~ SERVICES

b. The county department shall involve the participant when choosing to invoke a waiver. The individual at their discretion may accept or refuse any waiver offered.

3. Requirements for Counties that Grant FVO Waivers:

When a county department and applicant/participant invoke the Family Violence Option the following are required:

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c. Follow certain processes with regard to all TANF applicants and participants includes:

1) Screen Colorado Works applicants and participants by identifying those who are or have been victims of domestic violence by using the Domestic Violence Screening form.

2) Assess Colorado Works applicants and participants who are identified as a victim of domestic violence by:

a) The nature and extent to which the individual may engage in work activities;

b) The resources and services needed to assist the individual in obtaining safety and self-sufficiency; and,

c) A plan to increase the individual's safety and self-sufficiency.

3) Grant to victims of domestic violence exemptions (or waivers) of certain TANF requirements, good cause based on circumstances that warrant non-participation in program work requirements of this section, non-cooperation with Child Support ~~Enforcement~~ SERVICES as defined in Section 3.604.2, L, or by allowing a program extension. Good cause may also be determined through the use of the prudent person principle standard as specified in Section 3.604.1, G.

a) Good cause for granting an FVO waiver of work activities and/or the 60-month time limit is defined as anything that would potentially endanger or unfairly penalize a participant or the participant's family if he/she participated in the county's standard program/work activity requirements.

b) Good cause for granting a waiver of the child support ~~enforcement~~ SERVICES cooperation requirement is defined as anything that is not in the best interest of the child, e.g., potentially endanger or unfairly penalize the individual or child if the individual cooperated with child support ~~enforcement.~~ SERVICES.

d. Provide certain resources to all TANF applicants and victims of domestic violence. Counties are to make immediate referrals to appropriate services, including: domestic violence services, legal services, health care, emergency shelter, child protection, and law enforcement. Such referrals are to be documented in the individual's case file.

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3.605 INCOME [Rev. eff. 9/15/12]

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3.605.3 Unearned Income [Rev. eff. 7/1/13]

For the purpose of determining eligibility for Colorado Works, the following shall be exempt from consideration as income:

A. Countable Unearned Income

Consideration of Unearned Income Against Program Income Standards

Unless otherwise specified, any unearned income is countable and together with all other countable income of the applicant, recipient, or assistance unit it must be considered against the applicable assistance program need and/or grant standards specified in the regulations covering the different programs.

1. Countable Unearned Income

Countable unearned income includes, but is not limited to the following, as well as other payments from any source, which can be construed to be a gain or benefit to the applicant or recipient and which are not earned income:

a. Veteran's Compensation and pension.

b. Income from rental property is considered as unearned income where the applicant or recipient is not actively managing the property on an average of at least twenty (20) hours a week. Rental income is countable to the extent it exceeds allowable expenses. Allowable expenses are maintenance, taxes, management fees, interest on mortgage, and utilities paid. This shall not include the purchase of the rental property and payments on the principal of loans for rental property.

c. ~~Support and alimony payments including all child support and alimony payments shall be used to determine eligibility. Child support excluding arrears from child support that is returned to families in a county that exercises the option to pass through the state and county share of current child support collection shall be disregarded when determining the Colorado Works grant amount.~~ CURRENT SPOUSAL MAINTENANCE (ALSO REFERRED TO AS ALIMONY).

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2. Periodic Payments

The following types of periodic payments are countable unearned income:

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~~j. Child Support Income - payments made by noncustodial parents for the support of children in a Colorado Works assistance unit shall be considered in accordance with the Colorado Works financial eligibility and payment rules. Child support paid to the family by the Child Support Enforcement Unit shall be considered countable unearned income.~~

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E. Child Support Income

1. ~~Any child support income paid directly to an assistance unit on behalf of a member of the assistance unit that is not turned over to the Child Support Enforcement program shall be counted as unearned income to determine eligibility and payment for the assistance unit.~~ AT INITIAL APPLICATION, CURRENT CHILD SUPPORT PAYMENTS RECEIVED BY THE ASSISTANCE UNIT SHALL BE CONSIDERED INCOME AND COUNTED AGAINST THE NEED STANDARD TO DETERMINE ELIGIBILITY.

2. ~~The county may pay the participant an amount equal to fifty percent (50%) of the state share and one hundred percent (100%) of the county share of the child support collection made by the noncustodial parent. The county shall not consider the child support returned to the family as income for purposes of calculating the basic cash assistance grant~~. ONCE

FOUND ELIGIBLE, CHILD SUPPORT INCOME IS EXCLUDED IN THE BASIC CASH ASSISTANCE GRANT CALCULATION.

3. FOR PURPOSES OF REDETERMINATION (RRR):

   a. INCONSISTENT CHILD SUPPORT PAYMENTS ARE NOT COUNTABLE. CHILD SUPPORT PAYMENTS ARE CONSIDERED CONSISTENT WHEN RECEIVED IN ALL SIX (6) OF THE SIX (6) PREVIOUS MONTHS.

   b. ONCE CONSISTENCY OF PAYMENTS HAS BEEN ESTABLISHED, CURRENT CHILD SUPPORT IS AVERAGED OVER THE PREVIOUS SIX (6) MONTHS. IF THAT AVERAGED AMOUNT IS $500 OR LESS FOR THE HOUSEHOLD, THE CHILD SUPPORT INCOME IS DISREGARDED FOR BOTH ELIGIBILITY AND GRANT CALCULATION. IF THAT AMOUNT IS OVER $500 FOR THE HOUSEHOLD, IT IS COUNTED, IN COMBINATION WITH OTHER INCOME, AGAINST THE NEED STANDARD TO DETERMINE CONTINUED ELIGIBILITY.

   c. IF FOUND ELIGIBLE, THE CHILD SUPPORT INCOME IS DISREGARDED FOR BASIC CASH ASSISTANCE GRANT CALCULATION.

4. CHILD SUPPORT ARREARS ARE EXEMPT INCOME AND ARE NOT USED FOR ELIGIBILITY OR GRANT CALCULATION.

3.606 COLORADO WORKS ELIGIBILITY DETERMINATION FOR PAYMENTS [Eff. 9/15/12]

3.606.1 Eligibility Requirements[Rev. eff. 7/1/13]

A. Countable Gross Income

All countable gross income of the assistance unit~~, including child support and maintenance support~~ received and expected to be received in the month prior to (if available) and in the month of application shall be used to determine eligibility.

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3.606.2 Basic Cash Assistance [Rev. eff. 7/1/13]

A. Payment of Basic Cash Assistance (BCA) Grants
Counties or groups of county departments shall not reduce the basic cash assistance grant, restrict eligibility, or impose sanctions that are inconsistent with state and federal laws or the rules of this Section 3.606.2.

B. Unreimbursed Public Assistance

The basic cash assistance grant shall be considered part of the unreimbursed public assistance (UPA) as defined in the Child Support ~~Enforcement~~ SERVICES rule manual at Section 6.002 (9 CCR 2504-1).

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3.606.4 REPORTING CHANGES AND REDETERMINATION OF ELIGIBILITY [Rev. eff. 8/7/13]

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B. Filing a Redetermination (RRR) to Continue Benefits

Colorado Works participants shall file their redetermination with the county by the filing deadline. A recipient's failure to file a RRR timely may delay the determination of benefits and income disregards will not be applied unless good cause is established. Complete forms received timely must be acted upon by the county department by the last day of the month. Complete forms received after the filing deadline must be acted upon by the tenth (10th) calendar day in the month following the month the redeterminations was due. Participants must have a minimum of five working days from the date they receive the Redetermination packet (RRR) to return the packet to the county.

A redetermination of eligibility shall mean a case review/determination of necessary information and verifications to determine eligibility at least once every twelve months. An interview for Colorado Works basic cash assistance cases shall take place annually with necessary verifications to determine whether the participant continues to be eligible for Colorado Works. To redetermine eligibility a case review must be conducted and necessary verification must be received to determine ongoing eligibility.

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3. Redetermination Process

During the redetermination process, the county worker shall:

a. Conduct an interview;

b. Explain the purpose of the interview and the use of the information supplied by the recipient on the redetermination form and any additional required forms;

c. Inform all recipients in writing at the eligibility redetermination that Social Security Numbers for all recipients will be used to request and exchange information with other agencies as part of the eligibility process, including the Department of Labor and Employment (state wage and unemployment data), Social Security Administration, and Internal Revenue Service (unearned income). IEVS information may also be exchanged with other state or federal agencies administering public assistance programs, including the Department of Labor and Employment, Child Support ~~Enforcement~~ SERVICES and the Social Security Administration;

d. Have the recipient complete the forms or complete the form on behalf of the recipient;

e. Explain the appeal rights to the recipient;

f. Witness the signature of the recipient and sign as a person who helped complete the forms, when applicable;

g. Review documents, verifications, and any other information supplied by the recipient with the recipient in order to obtain clarification if needed. Information requested shall include:

1) Income;

2) Other eligibility factors shall be verified unless satisfactory documentation is in the case record;

3) If reopened, Child Support ~~Enforcement~~ SERVICES and other appropriate units shall be advised.

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L. Reopening and Reinstatements

Cases may be reopened prior to the effective date of closure with good cause and reinstated if closed less than thirty (30) calendar days. If a case closure occurred due to failure to file an RRR, income disregards shall not be applied unless good cause exists.

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2. Reopening in Lieu of an Application- When a recipient requests assistance prior to the effective date of the recipient's discontinuation from assistance, the following procedures shall be followed:

a. A redetermination form or current application form shall be in the case file or completed and signed by the recipient;

b. Income shall be verified;

c. Other eligibility factors shall be verified unless satisfactory documentation is in the case record;

d. Medical documentation shall be obtained unless the certified period of disability covers the current date; and,

e. Eligibility determination shall be completed and appropriate actions shall be taken;

f. If reopened, Child Support ~~Enforcement~~ SERVICES and other appropriate units shall be so advised.

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3.606.8 Diversion, Supportive Services, Other Assistance, and Family Needs Payments [Rev. eff. 7/1/15]

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D. Other Assistance and Family Needs Payments

A county may provide other assistance or a family needs payment including, but not limited to, supportive services and other cash assistance in addition to the basic cash assistance grant. This assistance shall be based on the assessed need of the assistance unit. Any other assistance with a monetary value to the participant shall be included as unreimbursed public assistance (UPA) as

defined in the Child Support ~~Enforcement~~ SERVICES rule manual at Section 6.002 (9 CCR 2504-1) with the exception of those payments that are considered non-assistance such as transportation and/ or child care paid to employed individuals.

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3.609 COLORADO WORKS OVERPAYMENT, CLAIMS, INTENTIONAL PROGRAM VIOLATIONS, AND FRAUD PREVENTION AND DETECTION

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3.609.4 Criteria for Establishing and Recovering AFDC or Colorado Works/ TANF Overpayments [Rev. eff. 9/15/12]

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F. Computation of the Colorado Works Overpayment

Computation of recoveries for Colorado Works is based on the amount received that a recipient was originally deemed eligible for. All earned and unearned income received by the assistance unit and any child support payments received by the county Child Support ~~Enforcement~~ SERVICES office is taken into consideration in the computation.

In the instances where the overpayment is the direct result of actions tied to the determination of IPV and/or fraud, which resulted in receipt of benefits in error, or benefits received that the recipient was not eligible to receive shall be recovered.

G. Procedure for Computing Monthly Over/Under Payments

The calculation of overpayment shall begin in the month that the overpayment occurred. Claims as a result of the overpayment shall be established within ten (10) calendar days following adverse action notification unless otherwise specified and documented by the county department in the case file.

1. Determine the “as paid” Colorado Works amount by:

    a. Starting with the amount of the payment;

    b. Add any withholding amounts;

    c. Subtract child support payments ~~used~~ RETAINED BY CHILD SUPPORT SERVICES to reimburse the payment;

    d. The result is the “as paid” amount, also known as the “monthly non-reimbursed public assistance” (UPA).

2. Determine the “correct” payment by:

    a. Determining the need standard for the correct assistance unit for the month;

    b. Subtract all earned income (without employment disregards when the income is not reported timely); and,

c. Subtract the result from the amount of the payment plus any withholdings; and,

d. Calculate partial month payments utilizing the table found in Section, 3.606.2, H.

3. UPA and/or arrears shall not be used to offset and/or pay client error, fraud, or IPV overpayments.

4. Compare the total “monthly UPA” to this “correct” payment amount and collect as an overpayment the lesser of the two. The arithmetic result may indicate an underpayment.

The overpayment amount is reported to the Automated Child Support Enforcement System (ACSES) and reduces the total case UPA once the claim is paid. In the event the overpayment amount is less than the total case UPA, the recovery amount is the lesser of the two.

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3.609.94 Protections to the Individual [Rev. eff. 9/15/12]

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D. Disclosure of Confidential Information

1. No one outside the county department shall have access to records of the department except for individuals executing Income and Eligibility Verification System (IEVS); Child Support ~~Enforcement~~ SERVICES officials; federal and state auditors and private auditors for the county; and the applicant/recipient of public assistance. These individuals shall have access only for purposes necessary for the administration of the program. The following individuals shall have access to the records of the department if one of the following conditions is met:

a. The applicant or recipient is notified and his or her prior permission for release of information is obtained unless the information is to be used to verify income, eligibility or the amount of medical assistance payment under administration of the Income and Eligibility Verification System (IEVS). If, because of an emergency situation in which the applicant/recipient is physically or mentally incapacitated to the extent that he or she cannot sign the release form, and time does not permit obtaining an applicant's or recipient's consent prior to release of information, the county department must notify the applicant or recipient within 10+1 calendar days after supplying the information.

The notification shall include the name and address of the agency which requested the information, the reason the information was requested and a summary of the information released. If the applicant or recipient does not have a telephone or cannot be contacted within 10+1 calendar days, the county department must send written notification containing the required information within three (3) working days from the date the information was released.

b. A District Attorney requests information for the purpose of either prosecution for fraud or tracing a parent who has deserted a child.

c. Verified information obtained from the Internal Revenue Service through the Income and Eligibility Verification System may be provided only to persons or agencies directly connected with the administration of the Child Support ~~Enforcement~~ SERVICES program (if administered by an agency outside of the county department), Department of Labor and Employment, the Social Security Administration and other agencies in the state when necessary for the administration of the AFDC, Medicaid, Food Assistance or other state or federally funded means tested assistance programs, or the unemployment insurance program. County departments shall not release information regarding applicants or recipients to law enforcement agencies unless a search warrant is received by the county department.

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Notice of Proposed Rulemaking

Tracking number

2016-00568

Department

500,1008,2500 - Department of Human Services

Agency

2504 - Child Support Enforcement (Volume 6)

CCR number

9 CCR 2504-1

Rule title

RULE MANUAL VOLUME 6, CHILD SUPPORT ENFORCEMENT RULES

Rulemaking Hearing

Date

12/02/2016

Time

10:00 AM

Location

Denver Eastside Human Services Building, 3815 Steele Street, Denver, CO 80205

Subjects and issues involved

Implementation of Pass Through legislation requires changes to the rules so IV-A current support collections would distribute and disburse to families and would no longer be retained. Definitions will be changed to define Pass Through terms used in the allocation, distribution, and disbursement of child support payments. Distribution rule changes will allow IV-A current support collections to apply to unfunded disbursements according to the agreement with the obligee then be paid to the family when the State's Pass Through legislation is funded. Disbursement rule changes will require IV-A current support collections to be disbursed to the family within two business days when the State's Pass Through legislation is funded.

Statutory authority

26-1-107, C.R.S. (2016); 26-1-109, C.R.S. (2016); 26-1-111, C.R.S. (2016); SB15-012, 26-2-108, C.R.S. (2015); 26-2-111, C.R.S. (2015); 26-13-108, C.R.S. (2015)

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Title of Proposed Rule:	Revisions to Child Support Rules for SB15-012 Pass Through Project		
CDHS Tracking #:	16-7-12-1		
Revising CCR #s:	9 CCR 2504-1 Volume 6		
Office, Division, & Program:	Rule Author: Amber Athey	Phone:	303-866-2928
OES, Child Support Services Program		E-Mail:	amber.athey@state.co.us

STATEMENT OF BASIS AND PURPOSE

With the passage of Senate Bill 15-012, Colorado will be implementing a Pass-Through for child support collected to those who receive Temporary Aid for Needy Families (TANF) or Colorado Works, as it is known in Colorado, Basic Cash Assistance (BCA). Previously, the state intercepted all child support that was owed to Colorado Works customers. Once the bill is implemented, Colorado will be the only state in the country to have a full Pass-Through of all monthly current child support collected each month to Colorado Works customers who receive Basic Cash Assistance. This change will be implemented in 2017 as it has required extensive preparation and significant changes to the Automated Child Support Enforcement System (ACSES) and the Colorado Benefits Management System (CBMS).

The child support Pass Through is intended to enable Colorado Works customers to receive child support payments made by the non-custodial parent, in addition to the financial support they receive through Colorado Works. The Pass Through will allow Child support customers to receive both the Colorado Works grant and the child support payment, as long as they meet the needs standards requirements and remain eligible under Colorado Works criteria.

Authority for Rule:

State Board Authority: 26-1-107, C.R.S. (2016) - State Board to promulgate rules; 26-1-109, C.R.S. (2016) - state department rules to coordinate with federal programs; 26-1-111, C.R.S. (2016) - state department to promulgate rules for public assistance and welfare activities.

Program Authority: Senate Bill 15-012, 26-2-108, C.R.S. (2015) – Granting of assistance payments and social services; 26-2-111, C.R.S. (2015) – Eligibility for public assistance – rules – repeal. Colorado works program; 26-13-108, C.R.S. (2015)- Recovery of public assistance paid for child support and maintenance-interest collected on support obligations-designation in the Annual General Appropriations act.

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

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

County Human Services Directors Association, The Legal Center, All Families Deserve a Chance (AFDC) Coalition, Office of Economic Security (OES) Sub-PAC, County Child Support Services Administrators, County Colorado Works Administrators, Regional Partners—Federal Office of Child Support Enforcement, Colorado Department of Health Care Policy & Financing, Colorado Department of Human Services Food and Energy Assistance Division, Colorado Center on Law & Policy, Colorado Legal Services, and Fatherhood Program.

[Note: Changes to rule text are identified as follows: deletions are shown as “strikethrough”, additions are in “all caps”, and changes made between initial review and final adoption are in brackets.]

Title of Proposed Rule:	Revisions to Child Support Rules for SB15-012 Pass Through Project	
CDHS Tracking #:	16-7-12-1	
Revising CCR #s:	9 CCR 2504-1 Volume 6	
Office, Division, & Program:	Rule Author: Amber Athey	Phone: 303-866-2928
OES, Child Support Services Program		E-Mail: amber.athey@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule:

All custodial parents receiving Colorado Works and legally established noncustodial parents (NCPs) paying court ordered child support. The custodial parents will now be able to receive all current child support paid by the NCPs, rather than that support being retained by the State. This will not have an impact on the State's ability to collect arrears payments made toward child support.

2. Describe the qualitative and quantitative impact:

The projected impacts of this policy include the benefits associated with additional household income that accrue to individual families and larger communities, as well as with improved family relationships. Child support payments matter tremendously to poor families but are inconsistent and infrequent. The Congressional Research Service reported that in 2013, among poor families who received child support, those payments represented an average of 49% of their yearly income[1]. The Urban Institute estimates that every dollar of child support paid to the family reduces public assistance costs by 13 cents.

Passing funds through appears to increase both the likelihood that any payment is made and the amount of individual payments. Research conducted by the Urban Institute[2] and the Institute for Research on Poverty[3] has found that by passing through the full amount of current support to the child, the percentage of cases with payments increased by 1.8 to 2.7 percentage points in the first year, and by about 3 percentage points at three years for both studies. The same studies found that the amount of child support payments increased by 5.6 to 23 percent in year one and by 11 to 12 percent in year three.

In 2014 and 2015, on average 570 Colorado Works cases per month received a child support payment toward current child support for an average of $133.45. Annually and at the state level, this rolls up to a total of $6,295,390 in 2012 for approximately 7,000 families. This policy will pass those funds on to the families on whose behalf they were received.

Additional benefits to families we anticipate resulting from this policy include:

1. Possible reduction in cases referred to child welfare[4],
2. Increased paternity establishment[5],
3. Improved child outcomes such as educational attainment and reduction in behavioral problems[6] & [7]
4. More parental involvement in children's lives[8]

[1] Child Support: An Overview of Census Bureau Data on Recipients. Congressional Research Service. March 1, 2016. https://www.fas.org/sgp/crs/misc/RS22499.pdf

[2] Lippold, Kyle, et al. (November 2010). Evaluation of the $150 Child Support Pass-Through and Disregard Policy in the District of Columbia. Urban Institute, DC: Washington

[3] Meyer, Daniel R., and Maria Cancian. (2001.)W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment. Report to the Wisconsin Department of Workforce Development. University of Wisconsin–Madison, Institute for Research on Poverty

[4] Cancian, Maria; Slack, Kristen; and Young, Mi. (August 2010). "The Effect of Family Income on Risk of Child Maltreatment," Institute Research on Poverty Discussion Paper 1385-10, University of Wisconsin

[5] W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment.(2001) Ibid

[6] Involving Non-Resident Fathers In Children's Learning. A Father Matter Report, Chapter 1: Why Fathers Matter. US Department of Health and Human Services, September 2000.

[7] Ibid.

Senate Bill 15-012 states that the General Assembly may annually appropriate moneys to reimburse the counties fifty percent of the child support collections that are paid to families through the Pass-Through to backfill their loss of revenue and the Federal Government for its share of the Pass-Through. In any fiscal year in which the General Assembly does not appropriate the necessary amount of moneys to cover these costs of the Pass-Through, the ACSES and the CBMS must be programmed to not pass through the collections. That is part of the Pass-Through design that is being developed.

3. Fiscal Impact:

State Fiscal Impact:
Funding was received through the legislation fiscal note for Senate Bill 15-012 to include operational expenses of multiple system changes, contract personnel, training, and outreach.

County Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the County level.

Federal Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the Federal level.

Other Fiscal Impact:
None because most barriers are addressed with the fiscal note and Waiver commitment.

4. Data Description:

The Department used an outside vendor, The Center for Policy Research, to conduct an analysis and collect research findings on Pass-Through done in other states. Using Colorado data, they applied these findings to forecast cause and effect on possible implications of the Pass Through when applied to the current caseload.

5. Alternatives to this Rule-making:

No alternative because this is based on statutorily required changes to implement the legislative directive given in S.B. 15-012.

[8] Seltzer, J.A., McLanahan, S., Hanson, T. (March 1997) "Will Child Support Enforcement Increase Father-Child Contact and Parental Conflict after Separation?"

Title of Proposed Rule: Revisions to Child Support Rules for SB15-012 Pass Through Project
CDHS Tracking #: 16-7-12-1
Revising CCR #s: 9 CCR 2504-1 Volume 6

Office, Division, & Program: OES, Child Support Services Program
Rule Author: Amber Athey
Phone: 303-866-2928
E-Mail: amber.athey@state.co.us

OVERVIEW OF PROPOSED RULE

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

Section Numbers	Current Regulation	Proposed Change	Stakeholder Comment	
			Yes	***X No***
6.002	*Definitions-pass through is not defined.*	*Addition of pass through terms and definitions.*		
6.803	*Distribution from IV-A allocation applies first to unfunded disbursement, unreimbursed public assistance, then to family.*	*Distribution of IV-A current support to unfunded disbursement per custodial parent agreement, 10%, or $10.00-whichever is more, and then to the family.*	***X Yes***	***No***
6.804.1	*Disbursement from IV-A allocation occurs if an excess payment.*	*Disbursement of IV-A current support collections to family within 2 business days.*	***X Yes***	***No***

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DEVELOPMENT

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):
Child Support Pass Through Steering Committee, Child Support Pass Through Policy Subcommittee, Colorado Department of Human Services Food and Energy Assistance Division, Colorado Department of Human Services Child Support Services Division

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

[X] Yes [ ] No

If yes, who was contacted and what was their input? Marivel Klueckman with Colorado Department of Health Care Policy and Financing was contacted. No input received.

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

[X] Yes [ ] No

Date presented August 4, 2016.

What issues were raised? None

If not presented, explain why.

Comments were received from stakeholders on the proposed rules:

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

Stakeholder Feedback/Questions:

El Paso County Department of Human Services: Sharon Eddy

Question:
Will tax intercepts be passed through? My understanding is that the six months of child support will be averaged. If a household receives only $150 for five of those months, but then receives a tax intercept of $3000 in the 6th month, will the HH be ineligible? Would they just be ineligible the first month of RRR, and then be eligible to reapply the following month? Or would there be POI?

Response:
No, tax intercepts will not be passed through at this time. Your understanding is correct that six months of current monthly child support will be averaged after it has been determined there are consistent payments. To modify your example, if a household receives only $150 for five of those months, but then receives a lump sum payment of current monthly support (not tax intercept) of $3000 in the 6th month, the average would be $625 per month of income ($150 x 5 + $3000/6 months) that would be counted at RRR. Keep in mind that the monthly current support due in the example would be at least $3000 for the entire amount to be included in the average. The household could re-apply and the county department would use the regular intake eligibility requirements, comparing all income to the Need Standard for the family size. There would be no Period of Ineligibility (POI) applicable.

Weld County Department of Human Services: Jamie Ulrich

Weld County has the following feedback regarding the proposed rules/legislation:

Comment:
1. There are general concerns about the legislation itself- it is unclear how this is going to impact the counties fiscally, specifically if there is an increase in BCA being paid out. This could result in fewer resources for counties to spend on employment activities and supportive services.

Response:
Thank you for this input. The State will be closely monitoring the fiscal impacts of the Pass Through. Please review the fiscal note attached that has a broader financial analysis to better illustrate the counties fiscal impact. The Child Support Pass Through Steering Committee, Policy Subcommittee, in conjunction with the State Policy team reviewed data related to this concern. Intake eligibility standards are not changing with the implementation of the Pass Through, so it is anticipated that there would be a minimal increase in Basic Cash Assistance or BCA being paid out. Counties are encouraged to continue to increase the support provided through employment activities and services through the county block grant. With the elimination of the half-sibling rule, the family size may increase which could lead to an increase in the need standard so the Employment and Benefits Division gathered additional information and based on feedback received, has decided to not move forward rule or system modifications impacting the half-sibling rule.

Comment:
2. There are still some unknowns surrounding how the pass through will affect other benefits, such as Housing and Food Assistance.

Response:

Eligibility and payment for other programs may be impacted. We do not anticipate rules changing for other programs due to implementation of the Pass Through. Therefore, if child support is now countable for the program, it will likely remain countable. Food Assistance would be impacted by a reduction of the amount of benefits the household would receive by 3 to 1, meaning for every $3 dollar of support received it would affect the grant by $1 and could impact eligibility about 2 months after receipt of the child support payment.

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Weld County specific concerns regarding the Child Support Services rules include:

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2. Statute states that “the county shall report the amount of the child support payments to the state department”. How is the county to report this?

Response:
Currently, reporting is done by the State on behalf of Counties for the collection of child support payments received by each. This process will continue.

Jefferson County Department of Human Services: Alvin Tafoya

Question:
Do you have a document which identifies the financial impact to counties regarding these changes or the cost that the state “may” assume as a result of these changes? I know one was created some time ago, but I am unable to locate that information and our director would like an updated version to ensure that the state budget appropriates said funding to support this endeavor.

Response:

There is not a specific document identifying the county fiscal impact as there is no anticipated impact to the counties related to the Pass Through. The General Assembly may annually appropriate funds to the State to reimburse the counties. If the General Assembly does not appropriate the funds necessary to reimburse counties for their share of retained child support payments, counties are not required to implement the Child Support Pass Through to Colorado Works recipients but may choose to do so using county revenues. See the attached document on the Fiscal Note. If you are referring to the IRS tax intercept document, which the State provided a cost estimate for, that issue has not been decided and may be considered through a separate rule proposal and system change. The current Pass Through proposed rules and system changes do not include the tax interception component.

Mesa County DHS: Michelle Trujillo

Question:
Should there be a second set of rules that would be used in the event that pass through is NOT funded?

Response:
The proposed rule changes are not dependent on the pass through being funded. It is the intent of policy to continue to exempt child support income. Therefore, a second set of rules is not needed. However, if it comes to having to turn this off, we will have enough time to react from one fiscal year to the next.

Question:
Should we say something about period of intent when talking about child support? For example, if child support comes in January, February, and March, then in April it isn't paid until April 30th, so to shows up in CBMS May, then the NCP pays their regular payment in May and June. Will CBMS know that one of the two May payments was for April to count the six consecutive months?

Response:
The date of receipt will be used by CBMS, not the period of intent, when looking at consistency of payments. CBMS will also use the date a RRR is processed to determine the look back period. For example, a RRR due for 8/31 but processed on 7/25, would look at payments received January through June. If that same RRR was processed on 8/5, the look back period would be February through July.

9 CCR 2504-1

Proposed Rule Changes for Implementation of SB15-012

New definitions required
6.002 DEFINITIONS [Rev. eff. 11/1/13]
…
"Pass Through Amount" – means an assigned support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse assistance. In current-assistance cases, the federal share will be waived for up to $100 per month for TANF families with one child and up to $200 per month for families with two or more children, as long as both the federal and state share of the Pass-Through are paid to the family and are disregarded in determining the TANF Basic Cash amount of assistance provided to the family.
"Excess Pass Through Amount" – means an assigned support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse assistance over the Pass Through Amount.
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Revision of Rules for implementation of Pass through
6.803 DISTRIBUTION OF SUPPORT COLLECTIONS
6.803.1 Distribution from a Title IV-A Allocation [Rev. eff. 9/15/12]
THE PASS THROUGH OF CURRENT CHILD SUPPORT COLLECTIONS IS DEPENDENT UPON LEGISLATIVE FUNDING AVAILABILITY. WHEN PASS THROUGH IS FUNDED, THE DEFICIT REDUCTION ACT (DRA) DISTRIBUTION RULES SHALL APPLY. WHEN PASS THROUGH IS NOT FUNDED, STANDARD DISTRIBUTION RULES SHALL APPLY.

DRA DISTRIBUTION OF COLLECTIONS FROM A TITLE IV-A ALLOCATION SHALL BE AS FOLLOWS:

A. AMOUNTS APPLIED TO THE MONTHLY SUPPORT OBLIGATION (MSO):
    1. SHALL FIRST APPLY TOWARDS ANY UNFUNDED DISBURSEMENT BALANCE ACCORDING TO THE AGREEMENT WITH THE OBLIGEE, up to 10% of the payment received or $10.00, whichever is greater, from current support
    2. SHALL BE PAID TO THE FAMILY

B. AMOUNTS APPLIED TO A IV-A ARREARS BALANCE SHALL FIRST APPLY TOWARDS ANY OBLIGEE UNFUNDED DISBURSEMENT BALANCE AND ARE THEN USED TO REIMBURSE UNREIMBUSED PUBLIC ASSISTANCE AND/OR UNREIMBURSED SPECIFIC MEDICAL DOLLAR ORDER AMOUNTS.
    1. UNREIMBURSED PUBLIC ASSISTANCE WILL BE SATISFIED FIRST IN THE ENFORCING COUNTY FOR ALL PERIODS OF PUBLIC ASSISTANCE, THEN LAST IN FIRST OUT (LIFO) FOR ALL OTHER COUNTIES FOR ALL PERIODS OF PUBLIC ASSISTANCE FOR EACH COUNTY UNTIL ALL IV-A ASSIGNED ARREARS ARE COLLECTED. PAYMENTS TO OTHER COUNTIES WILL BE MADE BY MEANS OF AN INTER-COUNTY TRANSFER OF FUNDS AS PRESCRIBED BY THE STATE.
    2. IN THE EVENT NO OTHER COUNTY HAS SUCH MONETARY INTEREST IN THE CASE, EXCESS OVER UNREIMBURSED PUBLIC ASSISTANCE WILL BE PAID TO THE OBLIGEE.

STANDARD Distribution of collections from a Title IV-A allocation shall be as follows:
A. Amounts applied to the monthly support obligation (MSO):

1. Shall apply towards any obligee unfunded disbursement balance.
2. Shall be used to reimburse the total unreimbursed public assistance (UPA) provided to the family.
3. Shall be sent to the family as excess over unreimbursed public assistance if there is no unreimbursed public assistance (UPA) balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance, and are then used to reimburse unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, and then Last in First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.
2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

****

6.804 DISBURSEMENT OF SUPPORT COLLECTIONS [Rev. eff. 9/15/12]

6.804.1 Disbursement from a Title IV-A Allocation [Rev. eff. 9/15/12]

Disbursement of collections from a title IV-A allocation shall be as follows:

A. DISBURSEMENTS OF PASS THROUGH OR EXCESS PASS THROUGH AMOUNTS SHALL BE PAID TO THE FAMILY WITHIN TWO (2) BUSINESS DAYS FROM THE COLORADO ~~INITIAL~~ DATE OF RECEIPT IF SUFFICIENT INFORMATION IDENTIFYING THE PAYEE IS PROVIDED.

B. Disbursements to excess over UPA shall be paid to the family within two (2) business days of the end of the month in which the collection was received if sufficient information identifying the payee is provided.

C. If the collection was received from a federal income tax return, the excess over unreimbursed public assistance payment must be sent to the family within thirty (30) calendar days of the Colorado ~~initial~~ date of receipt unless based on a joint tax return (see Section 6.804.6).

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STATEMENT OF BASIS AND PURPOSE

With the passage of Senate Bill 15-012, Colorado will be implementing a Pass-Through for child support collected to those who receive Temporary Aid for Needy Families (TANF) or Colorado Works, as it is known in Colorado, Basic Cash Assistance (BCA). Previously, the state intercepted all child support that was owed to Colorado Works customers. Once the bill is implemented, Colorado will be the only state in the country to have a full Pass-Through of all monthly current child support collected each month to Colorado Works customers who receive Basic Cash Assistance. This change will be implemented in 2017 as it has required extensive preparation and significant changes to the Automated Child Support Enforcement System (ACSES) and the Colorado Benefits Management System (CBMS).

The child support Pass Through is intended to enable Colorado Works customers to receive child support payments made by the non-custodial parent, in addition to the financial support they receive through Colorado Works. The Pass Through will allow Child support customers to receive both the Colorado Works grant and the child support payment, as long as they meet the needs standards requirements and remain eligible under Colorado Works criteria.

Authority for Rule:

State Board Authority: 26-1-107, C.R.S. (2016) - State Board to promulgate rules; 26-1-109, C.R.S. (2016) - state department rules to coordinate with federal programs; 26-1-111, C.R.S. (2016) - state department to promulgate rules for public assistance and welfare activities.

Program Authority: Senate Bill 15-012, 26-2-108, C.R.S. (2015) – Granting of assistance payments and social services; 26-2-111, C.R.S. (2015) – Eligibility for public assistance – rules – repeal. Colorado works program; 26-13-108, C.R.S. (2015)- Recovery of public assistance paid for child support and maintenance-interest collected on support obligations-designation in the Annual General Appropriations act.

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

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

County Human Services Directors Association, The Legal Center, All Families Deserve a Chance (AFDC) Coalition, Office of Economic Security (OES) Sub-PAC, County Child Support Services Administrators, County Colorado Works Administrators, Regional Partners—Federal Office of Child Support Enforcement, Colorado Department of Health Care Policy & Financing, Colorado Department of Human Services Food and Energy Assistance Division, Colorado Center on Law & Policy, Colorado Legal Services, and Fatherhood Program.

[Note: Changes to rule text are identified as follows: deletions are shown as “strikethrough”, additions are in “all caps”, and changes made between initial review and final adoption are in brackets.]

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REGULATORY ANALYSIS

1. List of groups impacted by this rule:

All custodial parents receiving Colorado Works and legally established noncustodial parents (NCPs) paying court ordered child support. The custodial parents will now be able to receive all current child support paid by the NCPs, rather than that support being retained by the State. This will not have an impact on the State's ability to collect arrears payments made toward child support.

2. Describe the qualitative and quantitative impact:

The projected impacts of this policy include the benefits associated with additional household income that accrue to individual families and larger communities, as well as with improved family relationships. Child support payments matter tremendously to poor families but are inconsistent and infrequent. The Congressional Research Service reported that in 2013, among poor families who received child support, those payments represented an average of 49% of their yearly income[1]. The Urban Institute estimates that every dollar of child support paid to the family reduces public assistance costs by 13 cents.

Passing funds through appears to increase both the likelihood that any payment is made and the amount of individual payments. Research conducted by the Urban Institute[2] and the Institute for Research on Poverty[3] has found that by passing through the full amount of current support to the child, the percentage of cases with payments increased by 1.8 to 2.7 percentage points in the first year, and by about 3 percentage points at three years for both studies. The same studies found that the amount of child support payments increased by 5.6 to 23 percent in year one and by 11 to 12 percent in year three.

In 2014 and 2015, on average 570 Colorado Works cases per month received a child support payment toward current child support for an average of $133.45. Annually and at the state level, this rolls up to a total of $6,295,390 in 2012 for approximately 7,000 families. This policy will pass those funds on to the families on whose behalf they were received.

Additional benefits to families we anticipate resulting from this policy include:

1. Possible reduction in cases referred to child welfare[4],
2. Increased paternity establishment[5],
3. Improved child outcomes such as educational attainment and reduction in behavioral problems[6] & [7]
4. More parental involvement in children's lives[8]

[1] Child Support: An Overview of Census Bureau Data on Recipients. Congressional Research Service. March 1, 2016. https://www.fas.org/sgp/crs/misc/RS22499.pdf

[2] Lippold, Kyle, et al. (November 2010). Evaluation of the $150 Child Support Pass-Through and Disregard Policy in the District of Columbia. Urban Institute, DC: Washington

[3] Meyer, Daniel R., and Maria Cancian. (2001.)W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment. Report to the Wisconsin Department of Workforce Development. University of Wisconsin–Madison, Institute for Research on Poverty

[4] Cancian, Maria; Slack, Kristen; and Young, Mi. (August 2010). "The Effect of Family Income on Risk of Child Maltreatment," Institute Research on Poverty Discussion Paper 1385-10, University of Wisconsin

[5] W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment.(2001) Ibid

[6] Involving Non-Resident Fathers In Children's Learning. A Father Matter Report, Chapter 1: Why Fathers Matter. US Department of Health and Human Services, September 2000.

[7] Ibid.

Senate Bill 15-012 states that the General Assembly may annually appropriate moneys to reimburse the counties fifty percent of the child support collections that are paid to families through the Pass-Through to backfill their loss of revenue and the Federal Government for its share of the Pass-Through. In any fiscal year in which the General Assembly does not appropriate the necessary amount of moneys to cover these costs of the Pass-Through, the ACSES and the CBMS must be programmed to not pass through the collections. That is part of the Pass-Through design that is being developed.

3. Fiscal Impact:

State Fiscal Impact:
Funding was received through the legislation fiscal note for Senate Bill 15-012 to include operational expenses of multiple system changes, contract personnel, training, and outreach.

County Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the County level.

Federal Fiscal Impact:
None because it is not affecting programmatic funding as it is a set pre-determined amount, so no impact at the Federal level.

Other Fiscal Impact:
None because most barriers are addressed with the fiscal note and Waiver commitment.

4. Data Description:

The Department used an outside vendor, The Center for Policy Research, to conduct an analysis and collect research findings on Pass-Through done in other states. Using Colorado data, they applied these findings to forecast cause and effect on possible implications of the Pass Through when applied to the current caseload.

5. Alternatives to this Rule-making:

No alternative because this is based on statutorily required changes to implement the legislative directive given in S.B. 15-012.

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

[X] Yes [ ] No

Date presented August 4, 2016.

What issues were raised? None

If not presented, explain why.

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Do you have a document which identifies the financial impact to counties regarding these changes or the cost that the state “may” assume as a result of these changes? I know one was created some time ago, but I am unable to locate that information and our director would like an updated version to ensure that the state budget appropriates said funding to support this endeavor.

Response:

There is not a specific document identifying the county fiscal impact as there is no anticipated impact to the counties related to the Pass Through. The General Assembly may annually appropriate funds to the State to reimburse the counties. If the General Assembly does not appropriate the funds necessary to reimburse counties for their share of retained child support payments, counties are not required to implement the Child Support Pass Through to Colorado Works recipients but may choose to do so using county revenues. See the attached document on the Fiscal Note. If you are referring to the IRS tax intercept document, which the State provided a cost estimate for, that issue has not been decided and may be considered through a separate rule proposal and system change. The current Pass Through proposed rules and system changes do not include the tax interception component.

Mesa County DHS: Michelle Trujillo

Question:
Should there be a second set of rules that would be used in the event that pass through is NOT funded?

Response:
The proposed rule changes are not dependent on the pass through being funded. It is the intent of policy to continue to exempt child support income. Therefore, a second set of rules is not needed. However, if it comes to having to turn this off, we will have enough time to react from one fiscal year to the next.

Question:
Should we say something about period of intent when talking about child support? For example, if child support comes in January, February, and March, then in April it isn't paid until April 30th, so to shows up in CBMS May, then the NCP pays their regular payment in May and June. Will CBMS know that one of the two May payments was for April to count the six consecutive months?

Response:
The date of receipt will be used by CBMS, not the period of intent, when looking at consistency of payments. CBMS will also use the date a RRR is processed to determine the look back period. For example, a RRR due for 8/31 but processed on 7/25, would look at payments received January through June. If that same RRR was processed on 8/5, the look back period would be February through July.

9 CCR 2504-1

Proposed Rule Changes for Implementation of SB15-012

New definitions required
6.002 DEFINITIONS [Rev. eff. 11/1/13]
…
"Pass Through Amount" – means an assigned support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse assistance. In current-assistance cases, the federal share will be waived for up to $100 per month for TANF families with one child and up to $200 per month for families with two or more children, as long as both the federal and state share of the Pass-Through are paid to the family and are disregarded in determining the TANF Basic Cash amount of assistance provided to the family.
"Excess Pass Through Amount" – means an assigned support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse assistance over the Pass Through Amount.
****

Revision of Rules for implementation of Pass through
6.803 DISTRIBUTION OF SUPPORT COLLECTIONS
6.803.1 Distribution from a Title IV-A Allocation [Rev. eff. 9/15/12]
THE PASS THROUGH OF CURRENT CHILD SUPPORT COLLECTIONS IS DEPENDENT UPON LEGISLATIVE FUNDING AVAILABILITY. WHEN PASS THROUGH IS FUNDED, THE DEFICIT REDUCTION ACT (DRA) DISTRIBUTION RULES SHALL APPLY. WHEN PASS THROUGH IS NOT FUNDED, STANDARD DISTRIBUTION RULES SHALL APPLY.

DRA DISTRIBUTION OF COLLECTIONS FROM A TITLE IV-A ALLOCATION SHALL BE AS FOLLOWS:

A. AMOUNTS APPLIED TO THE MONTHLY SUPPORT OBLIGATION (MSO):
    1. SHALL FIRST APPLY TOWARDS ANY UNFUNDED DISBURSEMENT BALANCE ACCORDING TO THE AGREEMENT WITH THE OBLIGEE, up to 10% of the payment received or $10.00, whichever is greater, from current support
    2. SHALL BE PAID TO THE FAMILY

B. AMOUNTS APPLIED TO A IV-A ARREARS BALANCE SHALL FIRST APPLY TOWARDS ANY OBLIGEE UNFUNDED DISBURSEMENT BALANCE AND ARE THEN USED TO REIMBURSE UNREIMBUSED PUBLIC ASSISTANCE AND/OR UNREIMBURSED SPECIFIC MEDICAL DOLLAR ORDER AMOUNTS.
    1. UNREIMBURSED PUBLIC ASSISTANCE WILL BE SATISFIED FIRST IN THE ENFORCING COUNTY FOR ALL PERIODS OF PUBLIC ASSISTANCE, THEN LAST IN FIRST OUT (LIFO) FOR ALL OTHER COUNTIES FOR ALL PERIODS OF PUBLIC ASSISTANCE FOR EACH COUNTY UNTIL ALL IV-A ASSIGNED ARREARS ARE COLLECTED. PAYMENTS TO OTHER COUNTIES WILL BE MADE BY MEANS OF AN INTER-COUNTY TRANSFER OF FUNDS AS PRESCRIBED BY THE STATE.
    2. IN THE EVENT NO OTHER COUNTY HAS SUCH MONETARY INTEREST IN THE CASE, EXCESS OVER UNREIMBURSED PUBLIC ASSISTANCE WILL BE PAID TO THE OBLIGEE.

STANDARD Distribution of collections from a Title IV-A allocation shall be as follows:
A. Amounts applied to the monthly support obligation (MSO):

1. Shall apply towards any obligee unfunded disbursement balance.
2. Shall be used to reimburse the total unreimbursed public assistance (UPA) provided to the family.
3. Shall be sent to the family as excess over unreimbursed public assistance if there is no unreimbursed public assistance (UPA) balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance, and are then used to reimburse unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, and then Last in First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.
2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

****

6.804 DISBURSEMENT OF SUPPORT COLLECTIONS [Rev. eff. 9/15/12]

6.804.1 Disbursement from a Title IV-A Allocation [Rev. eff. 9/15/12]

Disbursement of collections from a title IV-A allocation shall be as follows:

A. DISBURSEMENTS OF PASS THROUGH OR EXCESS PASS THROUGH AMOUNTS SHALL BE PAID TO THE FAMILY WITHIN TWO (2) BUSINESS DAYS FROM THE COLORADO ~~INITIAL~~ DATE OF RECEIPT IF SUFFICIENT INFORMATION IDENTIFYING THE PAYEE IS PROVIDED.

B. Disbursements to excess over UPA shall be paid to the family within two (2) business days of the end of the month in which the collection was received if sufficient information identifying the payee is provided.

C. If the collection was received from a federal income tax return, the excess over unreimbursed public assistance payment must be sent to the family within thirty (30) calendar days of the Colorado ~~initial~~ date of receipt unless based on a joint tax return (see Section 6.804.6).

Notice of Proposed Rulemaking

Tracking number

2016-00570

Department

500,1008,2500 - Department of Human Services

Agency

2508 - Finance and Accounting Rules (Volume 5)

CCR number

11 CCR 2508-1

Rule title

RULE MANUAL VOLUME 5, FINANCE

Rulemaking Hearing

Date

12/02/2016

Time

10:00 AM

Location

Denver Eastside Human Services Building, 3815 Steele Street, Denver, CO 80205

Subjects and issues involved

Minor changes to remove outdated references and other minor edits, most significantly:
Rule 5.302 will reference the new OMB Uniform Grant Guidance (2 C.F.R. Part 200), instead of the no longer applicable various OMB Circulars.
Rule 5.401 will reference the letter informing counties about their annual allocations, instead of the no longer applicable Agency Letter.

Statutory authority

26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015)
§26-1-108, C.R.S. (2016); 2 C.F.R. Part 200; §200.104 Supersession

Contact information

Name

Mette Boes

Title

Rule Author

Telephone

303-866-7327

Email

mette.boes@state.co.us

Title of Proposed Rule:	**Revisions to Finance and Accounting Rules**	
CDHS Tracking #:	**16-7-12-1**	
Office, Division, & Program: Office of Performance & Strategic Outcomes / Audit Division	Rule Author: Mette Boes	Phone: (303) 866-7327 E-Mail: mette.boes@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

Minor changes to remove outdated references and other minor edits for consistency, most significantly:

- Rule 5.302 will reference the new OMB Uniform Grant Guidance (2 C.F.R. Part 200), instead of the no longer applicable various OMB Circulars.
- Rule 5.401 will reference the letter informing counties about their annual allocations, instead of the no longer applicable Agency Letter.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

X	to comply with state/federal law and/or
	to preserve public health, safety and welfare

Justification for emergency:

N/A

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

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

Code	Description
§26-1-108, C.R.S. (2016)	Powers and duties of the executive director – rules (1)(a) Rules governing matters of internal administration in the state department, including organization, staffing, records, reports, systems, and procedures, and also governing fiscal and personnel administration for the state department and establishing accounting and fiscal reporting rules for disbursement of federal funds, contingency funds, and proration of available appropriations except those determinations precluded by authority granted to the state board. (2) The rules issued by the executive director pertaining to this title shall be binding upon the several county departments, providers, vendors, and agents of the state department…
2 C.F.R. Part 200 §200.104 Supersession	The following OMB guidance documents and regulations under Title 2 of the Code of Federal Regulations are superseded: (a) A-21, "Cost Principles for Educational Institutions" (2 CFR part 220); (b) A-87, "Cost Principles for State, Local and Indian Tribal Governments" (2 CFR part 225) and also Federal Register notice 51 FR 552 (January 6, 1986); (c) A-89, "Federal Domestic Assistance Program Information"; (d) A-102, "Grant Awards and Cooperative Agreements with State and Local Governments"; (e) A-110, "Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit

Office, Division, & Program: Office of Performance & Strategic Outcomes / Audit Division
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	Organizations" (codified at 2 CFR 215); (f) A-122, "Cost Principles for Non-Profit Organizations" (2 CFR part 230); (g) A-133, "Audits of States, Local Governments and Non-Profit Organizations"; and (h) Those sections of A-50 related to audits performed under Subpart F - Audit Requirements of this part.

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

If yes, please explain. Rule 5.302 incorporates 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

Title of Proposed Rule:	**Revisions to Finance and Accounting Rules**	
CDHS Tracking #:	**16-7-12-1**	
Office, Division, & Program:	Rule Author:	Phone: (303) 866-7327
Office of Performance & Strategic Outcomes / Audit Division	Mette Boes	E-Mail: mette.boes@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

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

County departments of social/human services

2. Describe the qualitative and quantitative impact.

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

The finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

3. Fiscal Impact

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

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

County Fiscal Impact

No impact because the finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

Federal Fiscal Impact

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

4. Data Description

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

None because the finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

Title of Proposed Rule:	**Revisions to Finance and Accounting Rules**	
CDHS Tracking #:	**16-7-12-1**	
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5. Alternatives to this Rule-making

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

No alternative because the finance and accounting requirements contained in 11 CCR 2508-1 must comply with 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

Title of Proposed Rule: **Revisions to Finance and Accounting Rules**

CDHS Tracking #: **16-7-12-1**

Office, Division, & Program:	Rule Author:	Phone: (303) 866-7327
Office of Performance & Strategic Outcomes / Audit Division	Mette Boes	E-Mail: mette.boes@state.co.us

OVERVIEW OF PROPOSED RULE

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

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
5.100	Added comma	These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting and auditing.	These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting, and auditing.		Yes
5.301	Consistent language	A county department of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.	County departments of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.		Yes
5.302	Outdated reference & consistent language	Counties shall comply with the applicable federal cost circulars and shall hold their sub-recipients and vendors accountable for compliance with the applicable circulars. Counties shall comply with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" published at 2 CFR 225, and OMB Circular A-102, "Common Rule" published at 45 CFR 92. If a county passes through federal funds to a non-profit organization, that non-profit organization shall comply with OMB Circular A-122, "Cost Principles for Non-Profit Organizations" published at 2 CFR 230. If a county passes through federal funds to an educational institution, that educational institution shall comply with OMB Circular A-21, "Cost Principles for Educational Institutions" published at 2 CFR 220. No later amendments or editions are incorporated.	County departments of social/human services shall comply with 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" and any other applicable federal cost circulars. When counties are a pass-through entity, they shall hold their subrecipients and contractors accountable for compliance with 2 C.F.R. Part 200 and any other applicable circulars.		Yes
5.401	Outdated reference & consistent language & added comma	The counties shall refer to an annual Colorado Department of Human Services Agency Letter which sets forth program allocations as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.	County departments of social/human services shall refer to an annual Colorado Department of Human Services County Allocation Letter which sets forth program allocations, as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.		Yes

Title of Proposed Rule: **Revisions to Finance and Accounting Rules**

CDHS Tracking #: **16-7-12-1**

Office, Division, & Program: Office of Performance & Strategic Outcomes / Audit Division

Rule Author: Mette Boes

Phone: (303) 866-7327

E-Mail: mette.boes@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
5.501	Consistent language	Counties shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.	County departments of social/human services shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.		Yes
5.601	Consistent language & capitalize “State”	Counties shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow state travel policies and procedures pursuant to 1 CCR 103-1.	County departments of social/human services shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow State travel policies and procedures pursuant to 1 CCR 103-1.		Yes
5.800	Incorrect reference to State Fiscal Rule 1-9 & capitalize “State”	Any suspected theft or embezzlement of federal, state or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of state and/or federal funds or assets totaling $5,000 or more shall be reported in writing to the county social/human service board and to the Director of the Audit Division of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236-3102.	Any suspected theft or embezzlement of federal, State or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of State and/or federal funds or assets totaling $5,000 or more per incident shall be reported in writing to the county social/human service board and to the Audit Division Director of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236.		Yes
5.900	Consistent language	Counties shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.	County departments of social/human services shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.		Yes

Title of Proposed Rule:	**Revisions to Finance and Accounting Rules**	
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STAKEHOLDER COMMENT SUMMARY

Development

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

CDHS Division of Financial Services/Controller

This Rule-Making Package

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

Finance Sub-PAC Committee & Colorado Human Services Directors Association (through Tracey Garchar, Executive Director, Mesa County Department of Human Services)

Other State Agencies

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

[ ] Yes [X] No

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

N/A

Sub-PAC

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

[X] Yes [ ] No

Date presented	10/6/2016
What issues were raised?	None
If not presented, explain why.	

Sub-PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented	N/A

Other Comments

Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

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

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The proposed changes were presented to the Finance Sub-PAC Committee on 10/6/2016 as "housekeeping" changes in order to comply with current requirements and practices. A document with the track changes on each rule was sent to attendees ahead of time for their review.

Rules 5.302 and 5.401 were highlighted as the most significant (although still minor) proposed changes. Rule 5.302 will reference the new OMB Uniform Grant Guidance (2 C.F.R. Part 200), instead of the no longer applicable OMB Circulars. Rule 5.401 will reference the allocation letter informing counties about their annual allocations, instead of the no longer applicable Agency Letter.

One question was received from Sharon Svendsen (Douglas County Department of Human Services) who asked about the use of "contractor" in the proposed rules. Mette Boes explained that 2 C.F.R. Part 200 replaced "vendor" (old term) with "contractor" (new term); the distinction is the same, but the terminology has changed. Mette Boes and Clint Woodruff further explained that 2 C.F.R. Part 200 combined eight OMB Circulars (see 2 C.F.R. §200.104) into one comprehensive Circular that includes requirements for both contractors and subrecipients. Clint Woodruff gave the example of procurement processes that apply to both contractors and subrecipients in the new 2 C.F.R. Part 200. No other questions, comments, or edits were received on the proposed changes.

EXAMPLE OF RULES WITH SECRETARY OF STATE'S STYLE CODING

(11 CCR 2508-1)

5.000 FINANCE AND ACCOUNTING [Rev. eff. 7/1/12]

5.100 PURPOSE AND SCOPE [Rev. eff. 7/1/12]
These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting, and auditing.

5.200 ROUTINE REPORTING PERIOD [Rev. eff. 7/1/12]

5.201 Monthly Reporting to the Colorado Department of Human Services [Rev. eff. 7/1/12]
The county social/human services director shall report to the Colorado Department of Human Services at such times and in such manner and form as the Colorado Department of Human Services may from time to time direct. The routine reporting period from the county to the Colorado Department of Human Services is a calendar month. The Controller of the Colorado Department of Human Services shall determine the date required to submit financial data for each monthly reporting cycle.

5.300 PROCUREMENT PROCESS [Rev. eff. 7/1/12]

5.301 Counties Shall Follow County Procurement Processes [Rev. eff. 7/1/12]
~~A c~~County department~~S~~ of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.

5.302 Compliance with Office of Management and Budget (OMB) Circulars [Eff. 7/1/12]
Count~~Y~~~~ies~~ DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall comply with 2 C.F.R. PART 200 AND ANY OTHER~~the~~ applicable federal cost circulars. ~~and~~WHEN COUNTIES ARE A PASS-THROUGH ENTITY, THEY shall hold their sub-recipients and CONTRACTORS~~vendors~~ accountable for compliance with 2 C.F.R. PART 200 AND ANY OTHER ~~the~~ applicable circulars. ~~Counties shall comply with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" published at 2 CFR 225, and OMB Circular A-102, "Common Rule" published at 45 CFR 92. If a county passes through federal funds to a non-profit organization, that non-profit organization shall comply with OMB Circular A-122, "Cost Principles for Non-Profit Organizations" published at 2 CFR 230. If a county passes through federal funds to an educational institution, that educational institution shall comply with OMB Circular A-21, "Cost Principles for Educational Institutions" published at 2 CFR 220. No later amendments or editions are incorporated.~~

Copies of this material are available by contacting the Controller of the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado, 80203, and online at http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=87f8582883b9a1bdf2ba739bee355a07&mc=true&n=pt2.1.200&r=PART&ty=HTML~~www.whitehouse.gov/omb/circulars_default or http://www.gpoaccess.gov/cfr/~~. Additionally, any incorporated material in these rules may be examined at any S~~s~~tate publications depository library.

5.400 County Allocations [Rev. eff. 7/1/12]

5.401 Counties Shall Use Colorado Department of Human Services Guidance [Rev. eff. 7/1/12]
~~The c~~Count~~Y~~~~ies~~ DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall refer to an annual Colorado Department of Human Services COUNTY ALLOCATION LETTER~~Agency Letter~~ which sets forth program allocations, as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.

5.500 CONTRACTS [Rev. eff. 7/1/12]

5.501 Contract Procedures [Rev. eff. 7/1/12]

CountYies DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.

5.600 TRAVEL [Rev. eff. 7/1/12]

5.601 Travel Procedures [Rev. eff. 7/1/12]

CountYies DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow Sstate travel policies and procedures pursuant to 1 CCR 103-1.

5.700 REQUIRED USE OF STATEWIDE AUTOMATED SYSTEMS [Rev. eff. 7/1/12]

County departments of social/human services shall use the Colorado Department of Human Services automated statewide client and/or provider information systems. These systems are designed to collect and store program data; assist with eligibility and payment determinations; generate forms and reports; create electronic benefit authorizations; and add to, delete, or make changes to the information on file.

5.800 REPORTING OF EMPLOYEE THEFT OR EMBEZZLEMENT [Rev. eff. 7/1/12]

Any suspected theft or embezzlement of federal, Sstate or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of Sstate and/or federal funds or assets totaling $5,000 or more PER INCIDENT shall be reported in writing to the county social/human service board and to the Director of the Audit Division DIRECTOR of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236-3102.

5.900 MAINTAIN INTERNAL CONTROLS AND ADEQUATE SEGREGATION OF DUTIES [Rev. eff. 7/1/12]

CountYies DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.

Title of Proposed Rule:	**Revisions to Finance and Accounting Rules**	
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Office, Division, & Program: Office of Performance & Strategic Outcomes / Audit Division	Rule Author: Mette Boes	Phone: (303) 866-7327 E-Mail: mette.boes@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

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- Rule 5.401 will reference the letter informing counties about their annual allocations, instead of the no longer applicable Agency Letter.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

X	to comply with state/federal law and/or
	to preserve public health, safety and welfare

Justification for emergency:

N/A

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

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

Code	Description
§26-1-108, C.R.S. (2016)	Powers and duties of the executive director – rules (1)(a) Rules governing matters of internal administration in the state department, including organization, staffing, records, reports, systems, and procedures, and also governing fiscal and personnel administration for the state department and establishing accounting and fiscal reporting rules for disbursement of federal funds, contingency funds, and proration of available appropriations except those determinations precluded by authority granted to the state board. (2) The rules issued by the executive director pertaining to this title shall be binding upon the several county departments, providers, vendors, and agents of the state department…
2 C.F.R. Part 200 §200.104 Supersession	The following OMB guidance documents and regulations under Title 2 of the Code of Federal Regulations are superseded: (a) A-21, "Cost Principles for Educational Institutions" (2 CFR part 220); (b) A-87, "Cost Principles for State, Local and Indian Tribal Governments" (2 CFR part 225) and also Federal Register notice 51 FR 552 (January 6, 1986); (c) A-89, "Federal Domestic Assistance Program Information"; (d) A-102, "Grant Awards and Cooperative Agreements with State and Local Governments"; (e) A-110, "Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit

Office, Division, & Program: Office of Performance & Strategic Outcomes / Audit Division
Rule Author: Mette Boes
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	Organizations" (codified at 2 CFR 215); (f) A-122, "Cost Principles for Non-Profit Organizations" (2 CFR part 230); (g) A-133, "Audits of States, Local Governments and Non-Profit Organizations"; and (h) Those sections of A-50 related to audits performed under Subpart F - Audit Requirements of this part.

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

If yes, please explain. Rule 5.302 incorporates 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

Title of Proposed Rule:	**Revisions to Finance and Accounting Rules**	
CDHS Tracking #:	**16-7-12-1**	
Office, Division, & Program:	Rule Author:	Phone: (303) 866-7327
Office of Performance & Strategic Outcomes / Audit Division	Mette Boes	E-Mail: mette.boes@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

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

County departments of social/human services

2. Describe the qualitative and quantitative impact.

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

The finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

3. Fiscal Impact

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

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

County Fiscal Impact

No impact because the finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

Federal Fiscal Impact

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

4. Data Description

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

None because the finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

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5. Alternatives to this Rule-making

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

No alternative because the finance and accounting requirements contained in 11 CCR 2508-1 must comply with 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

Title of Proposed Rule: **Revisions to Finance and Accounting Rules**

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OVERVIEW OF PROPOSED RULE

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

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
5.100	Added comma	These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting and auditing.	These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting, and auditing.		Yes
5.301	Consistent language	A county department of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.	County departments of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.		Yes
5.302	Outdated reference & consistent language	Counties shall comply with the applicable federal cost circulars and shall hold their sub-recipients and vendors accountable for compliance with the applicable circulars. Counties shall comply with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" published at 2 CFR 225, and OMB Circular A-102, "Common Rule" published at 45 CFR 92. If a county passes through federal funds to a non-profit organization, that non-profit organization shall comply with OMB Circular A-122, "Cost Principles for Non-Profit Organizations" published at 2 CFR 230. If a county passes through federal funds to an educational institution, that educational institution shall comply with OMB Circular A-21, "Cost Principles for Educational Institutions" published at 2 CFR 220. No later amendments or editions are incorporated.	County departments of social/human services shall comply with 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" and any other applicable federal cost circulars. When counties are a pass-through entity, they shall hold their subrecipients and contractors accountable for compliance with 2 C.F.R. Part 200 and any other applicable circulars.		Yes
5.401	Outdated reference & consistent language & added comma	The counties shall refer to an annual Colorado Department of Human Services Agency Letter which sets forth program allocations as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.	County departments of social/human services shall refer to an annual Colorado Department of Human Services County Allocation Letter which sets forth program allocations, as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.		Yes

Title of Proposed Rule: **Revisions to Finance and Accounting Rules**

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
5.501	Consistent language	Counties shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.	County departments of social/human services shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.		Yes
5.601	Consistent language & capitalize “State”	Counties shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow state travel policies and procedures pursuant to 1 CCR 103-1.	County departments of social/human services shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow State travel policies and procedures pursuant to 1 CCR 103-1.		Yes
5.800	Incorrect reference to State Fiscal Rule 1-9 & capitalize “State”	Any suspected theft or embezzlement of federal, state or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of state and/or federal funds or assets totaling $5,000 or more shall be reported in writing to the county social/human service board and to the Director of the Audit Division of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236-3102.	Any suspected theft or embezzlement of federal, State or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of State and/or federal funds or assets totaling $5,000 or more per incident shall be reported in writing to the county social/human service board and to the Audit Division Director of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236.		Yes
5.900	Consistent language	Counties shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.	County departments of social/human services shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.		Yes

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CDHS Tracking #:	**16-7-12-1**	
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STAKEHOLDER COMMENT SUMMARY

Development

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

CDHS Division of Financial Services/Controller

This Rule-Making Package

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

Finance Sub-PAC Committee & Colorado Human Services Directors Association (through Tracey Garchar, Executive Director, Mesa County Department of Human Services)

Other State Agencies

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

[ ] Yes [X] No

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

N/A

Sub-PAC

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

[X] Yes [ ] No

Date presented	10/6/2016
What issues were raised?	None
If not presented, explain why.	

Sub-PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented	N/A

Other Comments

Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

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

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The proposed changes were presented to the Finance Sub-PAC Committee on 10/6/2016 as "housekeeping" changes in order to comply with current requirements and practices. A document with the track changes on each rule was sent to attendees ahead of time for their review.

Rules 5.302 and 5.401 were highlighted as the most significant (although still minor) proposed changes. Rule 5.302 will reference the new OMB Uniform Grant Guidance (2 C.F.R. Part 200), instead of the no longer applicable OMB Circulars. Rule 5.401 will reference the allocation letter informing counties about their annual allocations, instead of the no longer applicable Agency Letter.

One question was received from Sharon Svendsen (Douglas County Department of Human Services) who asked about the use of "contractor" in the proposed rules. Mette Boes explained that 2 C.F.R. Part 200 replaced "vendor" (old term) with "contractor" (new term); the distinction is the same, but the terminology has changed. Mette Boes and Clint Woodruff further explained that 2 C.F.R. Part 200 combined eight OMB Circulars (see 2 C.F.R. §200.104) into one comprehensive Circular that includes requirements for both contractors and subrecipients. Clint Woodruff gave the example of procurement processes that apply to both contractors and subrecipients in the new 2 C.F.R. Part 200. No other questions, comments, or edits were received on the proposed changes.

EXAMPLE OF RULES WITH SECRETARY OF STATE'S STYLE CODING

(11 CCR 2508-1)

5.000 FINANCE AND ACCOUNTING [Rev. eff. 7/1/12]

5.100 PURPOSE AND SCOPE [Rev. eff. 7/1/12]
These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting, and auditing.

5.200 ROUTINE REPORTING PERIOD [Rev. eff. 7/1/12]

5.201 Monthly Reporting to the Colorado Department of Human Services [Rev. eff. 7/1/12]
The county social/human services director shall report to the Colorado Department of Human Services at such times and in such manner and form as the Colorado Department of Human Services may from time to time direct. The routine reporting period from the county to the Colorado Department of Human Services is a calendar month. The Controller of the Colorado Department of Human Services shall determine the date required to submit financial data for each monthly reporting cycle.

5.300 PROCUREMENT PROCESS [Rev. eff. 7/1/12]

5.301 Counties Shall Follow County Procurement Processes [Rev. eff. 7/1/12]
~~A c~~County department~~S~~ of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.

5.302 Compliance with Office of Management and Budget (OMB) Circulars [Eff. 7/1/12]
Count~~Y~~~~ies~~ DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall comply with 2 C.F.R. PART 200 AND ANY OTHER~~the~~ applicable federal cost circulars. ~~and~~WHEN COUNTIES ARE A PASS-THROUGH ENTITY, THEY shall hold their sub-recipients and CONTRACTORS~~vendors~~ accountable for compliance with 2 C.F.R. PART 200 AND ANY OTHER ~~the~~ applicable circulars. ~~Counties shall comply with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" published at 2 CFR 225, and OMB Circular A-102, "Common Rule" published at 45 CFR 92. If a county passes through federal funds to a non-profit organization, that non-profit organization shall comply with OMB Circular A-122, "Cost Principles for Non-Profit Organizations" published at 2 CFR 230. If a county passes through federal funds to an educational institution, that educational institution shall comply with OMB Circular A-21, "Cost Principles for Educational Institutions" published at 2 CFR 220. No later amendments or editions are incorporated.~~

Copies of this material are available by contacting the Controller of the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado, 80203, and online at http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=87f8582883b9a1bdf2ba739bee355a07&mc=true&n=pt2.1.200&r=PART&ty=HTML~~www.whitehouse.gov/omb/circulars_default or http://www.gpoaccess.gov/cfr/~~. Additionally, any incorporated material in these rules may be examined at any S~~s~~tate publications depository library.

5.400 County Allocations [Rev. eff. 7/1/12]

5.401 Counties Shall Use Colorado Department of Human Services Guidance [Rev. eff. 7/1/12]
~~The c~~Count~~Y~~~~ies~~ DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall refer to an annual Colorado Department of Human Services COUNTY ALLOCATION LETTER~~Agency Letter~~ which sets forth program allocations, as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.

5.500 CONTRACTS [Rev. eff. 7/1/12]

5.501 Contract Procedures [Rev. eff. 7/1/12]

CountYies DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.

5.600 TRAVEL [Rev. eff. 7/1/12]

5.601 Travel Procedures [Rev. eff. 7/1/12]

CountYies DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow Sstate travel policies and procedures pursuant to 1 CCR 103-1.

5.700 REQUIRED USE OF STATEWIDE AUTOMATED SYSTEMS [Rev. eff. 7/1/12]

County departments of social/human services shall use the Colorado Department of Human Services automated statewide client and/or provider information systems. These systems are designed to collect and store program data; assist with eligibility and payment determinations; generate forms and reports; create electronic benefit authorizations; and add to, delete, or make changes to the information on file.

5.800 REPORTING OF EMPLOYEE THEFT OR EMBEZZLEMENT [Rev. eff. 7/1/12]

Any suspected theft or embezzlement of federal, Sstate or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of Sstate and/or federal funds or assets totaling $5,000 or more PER INCIDENT shall be reported in writing to the county social/human service board and to the Director of the Audit Division DIRECTOR of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236-3102.

5.900 MAINTAIN INTERNAL CONTROLS AND ADEQUATE SEGREGATION OF DUTIES [Rev. eff. 7/1/12]

CountYies DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.

Permanent Rules Adopted

Department

Department of Revenue

Agency

Division of Motor Vehicles

CCR number

1 CCR 204-11

Rule title

1 CCR 204-11 MOTOR VEHICLE OFFICIAL AIR PROGRAM STATIONS 1 - eff 11/30/2016

Effective date

11/30/2016

DEPARTMENT OF REVENUE

Division of Motor Vehicles

1 CCR 204-11 RECODIFIED AS 1 CCR 204-1

RULE 2 EMISSIONS INSPECTION

Basis: The statutory bases for this rule are sections 42-4-301 through 42-4-316.5, C.R.S.

Purpose: The purpose of this rule is to establish the licensing requirements and enforcement standards for the Emissions Inspection Program, and set out processes for violations, sanctions and administrative hearings. This rule does not apply to the "basic program" as such stations are no longer in operation.

1.0 DEFINITIONS

1.1 Additional definitions and substantive regulations are found in the Air Quality Control Commission's Regulation 11, 5 CCR 1001-13.

1.2 "Analyzer Lockout": A temporary interruption of emissions testing caused by malfunctioning equipment or failure of an equipment audit.

1.3 "AQCC": Means the Colorado Air Quality Control Commission. The AQCC is the rulemaking body responsible for Regulation 11; 5 CCR 1001-13.

1.4 "Certification of Emissions Control" or "CEC": Either a Certification of Emissions Compliance or a Certification of Emissions Waiver issued to the owner of a vehicle to indicate the status of inspection requirement compliance of the vehicle.

1.5 "Compliance Document": A document consisting of the vehicle inspection data and the Certification of Emission Control.

1.6 "Department": The Colorado Department of Revenue.

1.7 "Division": The Air Pollution Control Division of the Colorado Department of Public Health and Environment.

1.8 "Emissions Extension": Authorization for a Colorado-registered vehicle temporarily located and operated outside of Colorado to renew registration.

1.9 "Executive Director": The executive director of the Colorado Department of Revenue or designee responsible for the enforcement and licensing functions of the emissions program.

1.10 "Inoperable": Major structural damage or catastrophic mechanical failures that prevent a vehicle from being emissions tested.

1.11 "Inspector Number": The numeric identifier issued by the Department to every licensed emissions inspector.

1.12 “Inspection Station”: A business entity or remote sensing equipment that is licensed to perform vehicle emissions inspections within the emissions program area.

1.13 “Letter of Qualification”: A letter issued by the Division indicating that an applicant has passed the written qualification test to become a licensed inspector or renew an inspector license.

1.14 “Normal Business Hours”: Monday through Friday, 8:00 a.m. through 5:00 p.m., with the exception of national holidays. Expanded hours may be required by contract.

1.15 “Regulation 11”: The regulation adopted by the AQCC governing the motor vehicle emissions inspection program for the control of air contaminant emissions from motor vehicles.

1.16 “Reinspection” (After-Repairs Test): A subsequent inspection performed after a vehicle has failed the initial inspection and been repaired.

1.17 “RSD Unit”: A remote sensing device that is certified by the Division and has been issued a license by the Department.

1.18 “VIN Verification”: A form issued by the Department to record vehicle information obtained from a physical inspection of a vehicle.

1.19 “Vehicle Identification Number” or “VIN“: A unique number assigned by a vehicle manufacturer or State that identifies a given vehicle.

1.20 “Vehicle Inspection Report” or “VIR”: A document issued to the owner or operator of a motor vehicle that indicates the vehicle’s emissions status.

1.21 “Waiver/Hardship Waiver”: A VIR issued by the Department indicating that the emissions from the vehicle do not comply with applicable emissions standards after inspection, adjustments, and emissions related repairs in accordance with section 42-4-310, C.R.S.

2.0 GENERAL LICENSING REQUIREMENTS

2.1 Application for station and inspector emissions licenses must be made on forms issued by the Department.

2.2 All licensees must comply with applicable Colorado state statutes, Regulation 11, and Department rules.

2.3 Licensees shall conduct only those inspections authorized by the type of license held.

2.4 Fees collected for license applications and renewals are non-refundable.

2.5 Inspection stations or inspectors must not perform an emissions test under an expired license.

2.6 Only a business or individual holding a valid emissions testing license issued by the Department may issue a VIR.

2.7 Licenses obtained by misrepresentation or false statements to the Department will be revoked.

2.8 No individual or business shall represent or allow itself to be represented as a licensed emissions inspector or licensed emissions inspection station unless it has a valid license issued by the Department.

2.9 Each licensee must maintain a current, valid mailing address with the Department.

2.10 Licensees must cooperate with the Department during the conduct of audits, investigations, and complaint resolution.

2.11 All fines assessed by the Department for violations of statutes, rules and regulations, or procedures, must be paid within the time period specified by the Department. The Department may revoke a license and take other action to collect unpaid fines.

2.12 The Department may deny a license application from an individual or business if the individual, or any individual with an ownership interest in the business, has had an emissions program license revoked or suspended by the Department.

2.13 License renewal applications received after the expiration date will be subject to the requirements for a new license, including the fee.

3.0 STATION LICENSES

3.1 Inspection station licenses are available in the following categories: inspection-only facility, fleet inspection station, enhanced inspection center, RSD site, and RSD unit.

3.2 Inspection station licenses are valid for 24 months beginning on the date issued and expiring at midnight twenty-four months later.

3.3 Inspection stations may only perform the functions allowed under the type of license issued.

3.4 Inspection station licenses are valid only at the location for which they are issued.

3.5 All RSD sites must be approved by the Division and licensed by the Department prior to providing services.

3.6 RSD Site licenses are issued for the lesser of 12 months or until the expiration of the use permit for that specific location.

3.7 RSD units can operate only at licensed sites.

3.8 Obtaining RSD site licenses is the sole responsibility of the RSD contractor. Document and site packets must contain site setup photos with a sketch of all equipment setup locations and dimensions by reference to a permanent benchmark. RSD sites must be set up and operated in a safe and prudent manner.

3.9 Transfer or sale of a business or any other change in ownership must be reported to the Department and requires a new license application and associated fees.

3.10 Inspection station licenses may not be transferred, loaned, or used by any individual or business other than the individual or business identified on the application.

3.11 All inspection stations must be and remain registered and in good standing with the Secretary of State.

3.12 Inspection stations must employ or contract with at least one licensed emissions inspector.

3.13 A licensee found to have violated local safety, occupancy, zoning, use, business and sales tax licensing laws, local ordinances, or other regulations may be suspended or revoked.

4.0 INSPECTOR LICENSES

4.1 Emissions inspector licenses are available in the following categories: inspection-only, fleet, and remote sensing.

4.2 An emissions inspector who is employed by more than one inspection station must obtain an inspector license with each employer. An emissions inspector who is employed by one employer with multiple inspection stations is only required to hold one license.

4.3 As a condition of licensure, applicants for emissions inspector licenses must comply with all regulations adopted by the AQCC and demonstrate the ability to perform a proper inspection.

4.4 Applicants must be employed by an inspection station.

4.5 Applicants must possess a current letter of qualification from the Division when applying for an emissions inspector license or license renewal.

4.6 Fleet or inspection-only facility inspectors who change employers must have their license transferred by the Department to the new place of employment prior to performing emissions tests.

4.7 Inspector qualifications do not transfer between license categories.

4.8 The Department may require a licensed emissions inspector to demonstrate proficiency in any elements of emissions testing at any time. Failure to demonstrate proficiency is cause for license suspension or revocation.

5.0 INSPECTION STATION OPERATIONS

5.1 No inspection station shall perform an emissions inspection unless it has the facilities and equipment required to safely and correctly perform all elements of an emissions inspection.

5.2 Inspection stations must have all the tools, reference manuals, and diagnostic equipment required by Regulation 11 on the licensed premises and in proper working order when open for business.

5.3 Inspection stations must have at least one licensed emissions inspector on the premises when open for business.

5.4 Inspection stations that serve the public must be open for business during normal business hours and as required by contract.

5.5 Inspection stations must have records available for inspection by Department personnel at all times during normal business hours.

5.6 Inspection stations must be capable of receiving U.S. mail.

5.7 Owners, operators, and employees of enhanced inspection centers and inspection-only facilities must not repair, service, sell parts, or sell or lease motor vehicles and must not refer customers to particular providers of motor vehicle repair services.

5.8 Each inspection station must pay the Department the appropriate fees for all VIRs issued for passing inspections. An inspection station whose license is cancelled, suspended, or revoked remains liable for any fees owed the Department.

5.9 Inspection stations, other than fleet inspection stations, must post licenses in a location visible to the public and subject to approval by the Department.

5.10 Fleet inspection stations may only perform emission inspections on vehicles in their fleet.

5.11 Signs:

5.11.1 All inspection stations must post a sign designating the licensed premises as an official emissions testing location.

5.11.2 Enhanced inspection centers and inspection-only facilities must post a sign stating that only inspections are available and no repairs or adjustments can be performed.

5.11.3 All inspection stations must post the fee charged for an emissions inspection.

5.11.4 All inspection stations that perform VIN inspections must post the VIN inspection fee.

5.11.5 All inspection stations must post all signs issued by the Department.

5.11.6 All signs must be placed in a conspicuous location on the licensed premises, visible to the public, and are subject to approval by the Department.

5.12 All inspections must be performed only at the licensed inspection station location.

5.13 A motor vehicle may be rejected by an emissions inspector if the vehicle is unsafe to test or cannot physically be inspected. The inspector must provide to the vehicle owner, in writing, a description of the vehicle to include VIN, make, model, and year; the location of the inspection station; the reason(s) for the rejection; date of the rejection; and the inspector who rejected the vehicle.

5.14 Enhanced inspection centers must provide a Department approved brochure and program information pamphlet to each customer upon completion of the inspection when a vehicle fails the inspection.

5.15 Inspection stations must possess current Department rules, Regulation 11, and related sections from Colorado Revised Statutes.

5.16 Inspection stations must have on the licensed premises an emissions control systems application guide approved by the Department, which contains a quick reference for emissions control systems and their uses on specific make, model, and year vehicles, either in printed or electronic medium.

5.17 Inspection stations must have on the premises a current Oxygen Sensor Guide obtained from any Division technical center or purchased from another source.

5.18 Inspection stations must secure all controlled documents in lockable storage.

5.19 No addition or modification can be made to an analyzer unless pre-approved by the Division or the Department.

5.20 No person shall, or attempt to, tamper with or circumvent any system or function of an analyzer.

5.21 Inspection station owners and operators must prevent tampering, circumvention, and unauthorized use of analyzers.

5.22 Analyzer lockout conditions can only be removed by authorized service personnel or representatives of the Department or Division.

5.23 The license of an inspection station that no longer meets licensing requirements may be revoked, suspended, or denied renewal.

5.24 RSD Operations:

5.24.1 The Department must be notified in writing, e-mail or other electronic means of all licensed RSD testing schedules and locations prior to testing. RSD units must not test at any time or location other than those for which the Department has been notified.

5.24.2 RSD results must be reported to the Department no later than 11:59 p.m. on the last day of the month or as otherwise agreed by the Department and the contractor.

6.0 DISTRIBUTION OF COMPLIANCE DOCUMENTS

6.1 Licensees must ensure that all compliance documents issued are complete, accurate, and legible.

6.2 Upon completion of an inspection, the VIR must be given to the customer along with all original documents (i.e. registration, failed VIRs, etc.).

6.3 Inspectors must explain to the customer the purpose of the VIR, including the results of the inspection.

6.4 If a vehicle fails the inspection, the inspector must:

6.4.1 Issue the VIR;

6.4.2 Advise the customer of the failure;

6.4.3 Provide a repair information pamphlet;

6.4.4 Explain that the vehicle is eligible for a free reinspection at any enhanced inspection center if the vehicle is returned within ten calendar days. If the inspection was completed at an inspection-only facility, the vehicle must be

returned to the facility where the original inspection was performed for the free reinspection.

6.5 If a vehicle inspection cannot be completed, the inspector must:

6.5.1 Issue the VIR;

6.5.2 Explain to the customer that the inspection could not be completed and the reasons therefore;

6.5.3 The fee for an incomplete inspection need not be refunded unless caused by the inspection station or the inspector.

6.6 Compliance documents that are damaged during the printing process must be reprinted using the analyzer reprint procedure.

7.0 VERIFICATION OF VEHICLE IDENTIFICATION NUMBER (Form DR 2698)

7.1 Licensed emissions inspectors employed by emissions testing inspection stations may perform a VIN inspection for no more than the posted fee.

7.2 A DR 2698 with any alteration or missing entries is invalid.

7.3 Vehicles with altered, illegible, multiple or missing vehicle identification numbers (VIN) must be directed to the Colorado State Patrol for verification.

7.4 An inspection station under suspension by order of the Department must not perform VIN inspections.

8.0 SECURITY AND RETENTION OF DOCUMENTS

8.1 All records related to the emissions program must be maintained by the licensee until retrieved or ordered for destruction by the Department.

8.2 All unused controlled documents must be kept in lockable storage and be available only to licensed emissions inspectors or other personnel authorized by the Department.

8.3 Missing or stolen documents must be reported to the Department within 24 hours of discovery.

8.4 Inspection stations may only issue vehicle inspection report forms obtained from the Department or its authorized agent.

8.5 Every damaged vehicle inspection report must be retained until the next audit by the Department.

9.0 USE OF INSPECTOR NUMBER AND SECURITY CODES

9.1 Each licensed emissions inspector will be assigned a confidential code to gain access to the analyzer.

9.2 Access codes and inspector numbers will be added and deleted by Department or Division personnel.

9.3 An access code must be used only by the licensee to whom it was assigned. Sharing of access codes is prohibited and is grounds for sanctions.

9.4 An emissions inspector number printed on a VIR is an electronic signature and is deemed certification by the licensee assigned that number that the licensee conducted the emissions test accurately and completely.

9.5 Emissions inspectors must report any unauthorized use of an access code to the Department within 24 hours of discovery.

9.6 Emissions inspectors are responsible for all VIRs bearing their numbers.

9.7 The inspector number must be part of the RSD data record.

9.8 Inspectors are responsible for any violation or fraudulent inspection which occurs using his or her inspector number. RSD inspectors are responsible for all data records bearing their numbers.

10.0 AUDITS

10.1 The Department monitors the activities of all licensed inspection stations and inspectors through ongoing site inspections, audits, investigations, consumer complaints, data analysis, performance observation, and other quality assurance methods.

10.2 The Department may conduct on-site audits at any time during posted business hours.

10.3 Inspection records, equipment, and licensed personnel must be available on site to the Department during posted business hours.

10.4 A notice of audit determination will be provided to the inspection station upon completion of the audit.

10.5 In the event of a lane equipment audit failure, the equipment must be recalibrated and rechecked. If the recalibration does not address the problem, the analyzer will be locked out until repairs are made and the equipment passes an audit.

10.6 The Department may conduct an audit of a RSD unit at any time while the unit is set up and operational at an approved site.

10.6.1 The contractor must provide the Department with daily notification of the status and location of each RSD unit.

10.6.2 The Department may require that a daily service log be maintained on each specific unit, and available for inspection by the Department auditors at each approved site.

10.6.3 All RSD sites must maintain current permit, licensing, and approval documentation for each operable site, available for inspection at the time and place of the Department roadside audits.

10.6.4 The Department may require a current Accepted Test Protocol (ATP) document for any RSD unit that has been out of service for a period over 30 days, or if any period of time is unaccounted for in the service log.

10.6.5 A notice of audit determination will be provided upon completion of the audit.

10.6.6 In the event of an audit failure or an incomplete audit, the associated inspection data will be identified and suspended from processing until the Division can determine the status of the RSD unit and the data in question.

10.6.6.1 A unit that passes the Division's evaluation may be placed back into service and the associated data approved for processing.

10.6.6.2 A unit that fails the Division's evaluation will not be placed back into service until repairs are made and approved by the Division. The associated data will be deemed invalid and ineligible for processing.

11.0 VIOLATIONS AND SANCTIONS

11.1 The Department may summarily suspend a license pursuant to section 24-4-104(4)(a), C.R.S.

11.2 The Department may suspend or revoke a license pursuant to section 24-4-104(3)(a), C.R.S.

11.3 The Department may suspend or revoke the license of a licensee convicted as defined in section 42-1-102(19) C.R.S., of a misdemeanor under the Colorado Air Pollution Prevention and Control Act, section 25-7-122.1, C.R.S., convicted under section 42-4-313, C.R.S., or of a licensee that has violated the Motor Vehicle Repair Act, section 42-9-101, et. seq., C.R.S.

11.4 The Department may suspend or revoke the license of a licensee who impedes the Department's ability to oversee, audit, or investigate matters under the Emissions Inspection Program, including behavior that is threatening, disruptive, or abusive.

11.5 The Department may conduct a monthly performance review with contractors. Any violation discovered may result in sanctions.

11.6 A licensee who receives notice pursuant to subsection 11.3 may within 30 days after the date of the notice:

11.6.1 Submit a written response setting forth data, views, and arguments with respect to the facts or conduct; or,

11.6.2 Comply with all lawful requirements or submit a plan acceptable to the Department to bring the licensee into compliance with all lawful requirements.

11.7 The Department may institute a proceeding to suspend or revoke a license pursuant to subsection 11.3 if the Department determines that the licensee failed to:

11.7.1 Submit a written response pursuant to subsection 11.6, or that the response does not rebut the evidence of such facts or conduct; or,

11.7.2 Comply with all lawful requirements or the plan submitted by the licensee is not acceptable to the Department.

11.8 Such proceeding shall be instituted by filing a Notice to Set and Order to Show Cause with the Hearings Division as set forth in Rule 12.1.

11.9 Any Notice from the Department, required pursuant to this rule, will be served personally or mailed via first class mail addressed to the last address furnished to the Department by the licensee.

12.0 ADMINISTRATIVE HEARINGS

12.1 Except as otherwise provided in section 42-4-312, C.R.S., all enforcement actions will proceed in accordance with the "State Administrative Procedure Act", article 4 of Title 24, C.R.S.

13.0 EMISSIONS EXTENSIONS (Form DR 2376)

13.1 A vehicle owner may apply for an emissions extension when a vehicle registered in Colorado is temporarily out of state at the time the registration renewal is due.

13.2 A vehicle owner applying for an emissions extension must provide the following:

13.2.1 If the vehicle is in a US city, county, state or Canada where emissions testing is required, proof of a passing emissions test. The extension is valid for the lesser of one emissions inspection cycle or until the vehicle returns to Colorado.

13.2.2 If the vehicle is in a US city, county, state, or Canada where emissions testing is not required, a VIN verification completed by a local law enforcement agency is required. Form DR2698 is available at Colorado.gov for this purpose, or the local law enforcement agency's VIN verification form is acceptable, provided the information collected is equivalent to that on the DR2698. The extension is valid for the lesser of one year or until the vehicle returns to Colorado.

13.2.3 If the vehicle is in Mexico, proof of current insurance from Mexico. The extension is valid for the lesser of one year or until the vehicle returns to Colorado.

13.2.4 If the vehicle is in a country other than Canada or Mexico, export papers. The extension is valid for the lesser of one year or until the vehicle returns to Colorado.

13.3 Upon return to Colorado, the owner of a vehicle granted an emissions extension must obtain a Certification of Emissions Control on the vehicle within fifteen days.

14.0 SALE OF INOPERABLE VEHICLES (Form DR 2023)

14.1 Only vehicles with major structural or catastrophic engine, transmission, or final drive, differential, or transfer case mechanical failures meet the requirements to be sold as inoperable or otherwise cannot be tested.

14.2 Vehicles where the primary mechanical failure is a failed emissions test will not be considered inoperable for purposes of sale without a Certification of Emissions Control.

14.3 Vehicles where the primary mechanical failure is missing or modified emissions components such as catalytic converters, oxygen sensors, air injection systems, exhaust gas recirculation (EGR) systems, or modified computer programming will not be considered inoperable for purposes of sale without a Certification of Emissions Control.

Editor's Notes

History

Entire rule eff. 12/30/2007.

Rules 1, 5, 7, 10 eff. 08/14/2011.

Rules I, II, V, VI, VII, X eff. 01/14/2012.

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Tracking number: 2016-00394

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Motor Vehicles

on 10/04/2016

1 CCR 204-11

MOTOR VEHICLE OFFICIAL AIR PROGRAM STATIONS (Recodified as 1 CCR 204-1 Rule 2)

The above-referenced rules were submitted to this office on 10/06/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

October 20, 2016 16:00:26

Permanent Rules Adopted

Department

Department of Revenue

Agency

Division of Motor Vehicles

CCR number

1 CCR 204-27

Rule title

1 CCR 204-27 APPLICATION FOR A DRIVER'S LICENSE AND/OR ID CARD AND THE COLLECTION OF SOCIAL SECURITY NUMBERS 1 - eff 11/30/2016

Effective date

11/30/2016

Rule 204-27 is being repealed.

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Tracking number: 2016-00375

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Motor Vehicles

on 10/04/2016

1 CCR 204-27

APPLICATION FOR A DRIVER'S LICENSE AND/OR ID CARD AND THE COLLECTION OF SOCIAL SECURITY NUMBERS

The above-referenced rules were submitted to this office on 10/06/2016 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 20, 2016 16:00:04

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Marijuana Enforcement Division

CCR number

1 CCR 212-1

Rule title

1 CCR 212-1 RULES REGARDING THE SALES, MANUFACTURING AND DISPENSING OF MEDICAL MARIJUANA 1 - eff 01/01/2017

Effective date

01/01/2017

M 100 Series – General Applicability

Basis and Purpose – M 103

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a) and 12-43.3-202(2)(a)(XX), C.R.S., section 12-43.3-104, and all of the Medical Code. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and not intended to be a defined term, it is not capitalized.

M 103 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 12-43.3-104, C.R.S., shall apply to all rules promulgated pursuant to the Medical Code, unless the context requires otherwise:

"Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to induce directly or indirectly any Person to patronize a particular Medical Marijuana Business, or to purchase particular Medical Marijuana or a Medical Marijuana-Infused Product. "Advertising" includes marketing, but does not include packaging and labeling. "Advertising" proposes a commercial transaction or otherwise constitutes commercial speech.

"Affiliated Interest" means any Business Interest related to a Medical Marijuana Business that does not rise to the level of a Financial Interest in a Medical Marijuana Business license. An Affiliated Interest may include, but shall not be limited to, an Indirect Beneficial Interest Owner that is not a Financial Interest, a lease agreement, secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, sale, transportation, or testing of Medical Marijuana or Medical Marijuana-Infused Products. Except as otherwise provided by these rules, an Affiliated Interest holder shall neither exercise control of nor be positioned so as to enable the exercise of control over the Medical Marijuana Business or its operations. A Medical Marijuana Business shall report each of its Affiliated Interests to the Division with each application for initial licensure, renewal, change of ownership or change of corporate structure.

"Agreement" means any unsecured convertible debt option, option agreement, warrant, or at the Division's discretion, other document that establishes a right for a person to obtain a Permitted Economic Interest that might convert to an ownership interest in a Retail Marijuana Establishment or Medical Marijuana Business.

"Alarm Installation Company" means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

"Applicant" means a Person that has submitted an application for licensure or registration, or for renewal of licensure or registration, pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Associated Key License" means an Occupational License for an individual who is a Direct Beneficial Interest Owner of the Medical Marijuana Business, other than a Qualified Limited Passive Investor. Each shareholder, officer, director, member, or partner of a Closely Held Business Entity that is a Direct Beneficial Interest Owner must hold an Associated Key License.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Medical Marijuana Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer to a specific Harvest Batch or Production Batch of Medical Marijuana.

"Business Interest" means any Person that holds a Financial Interest or an Affiliated Interest in a Medical Marijuana Business.

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995). Note that this rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulation, which is available to the public.

b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material;

c. Resealable for any product intended for more than a single use or containing multiple servings.

"Closely Held Business Entity" means an "entity" as defined in section 7-90-102, C.R.S., that has no more than fifteen shareholders, officers, directors, members, partners or owners, each of whom are natural persons, each of whom holds an Associated Key License, and each of whom is a United States citizen prior to the date of application. There must be no publicly traded market for interests in the entity. A Closely Held Business Entity and each of the natural persons who are its shareholders, officers, directors, members, partners or owners, are Direct Beneficial Interest Owners. A Closely Held Business Entity is an associated business of the Medical Marijuana Business for which it is a Direct Beneficial Interest Owner.

"Commercially Reasonable Royalty" means a right to compensation in the form of a royalty payment for the use of product-specific intellectual property. A Commercially Reasonable Royalty must be limited to a specific product or line of products and provide compensation to the Commercially Reasonable Royalty Holder as a percentage of gross revenue or gross profit generated from sales of the particular product or line of products. The royalty payment must be at a reasonable percentage rate. To determine whether the percentage rate is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:

a. The percentage of royalties received by the recipient for the licensing of the intellectual property.

b. The rates paid by the Licensee for the use of other intellectual property.

c. The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the manufactured product may be sold.

d. The licensor's established policy and marketing program to maintain his intellectual property monopoly by not licensing others or by granting licenses under special conditions designed to preserve that monopoly.

e. The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.

f. The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.

g. The duration of the term of the license for use of the intellectual property.

h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.

i. The utility and advantages of the intellectual property over products without the intellectual property.

j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.

k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.

l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.

"Commercially Reasonable Royalty Interest Holder" means a Person that receives a Commercially Reasonable Royalty in exchange for a Licensee's use of the Commercially Reasonable Royalty Interest Holder's intellectual property. A Commercially Reasonable Royalty Interest Holder is an Indirect Beneficial Interest Owner.

"Container" means the sealed package in which Medical Marijuana or a Medical Marijuana-Infused Product is placed for sale to a patient and that has been labeled according to the requirements set forth in Rules M 1002 *et. seq.*

"Denied Applicant" means any Person whose application for licensure pursuant to the Medical Code has been denied.

"Department" means the Colorado Department of Revenue.

"Direct Beneficial Interest Owner" means a natural person or a Closely Held Business entity that owns a share or shares of stock in a licensed Medical Marijuana Business, including the officers, directors, members, or partners of the licensed Medical Marijuana Business or Closely Held Business Entity, or a Qualified Limited Passive Investor. Each natural person that is a Direct Beneficial Interest Owner must hold an Associated Key License. Except that a Qualified Limited Passive Investor need not hold an Associated Key License and shall not engage in activities for which an Occupational License is required.

"Director" means the Director of the Marijuana Enforcement Division.

"Division" means the Marijuana Enforcement Division.

“Edible Medical Marijuana-Infused Product” means any Medical Marijuana-Infused Product that is intended to be consumed orally, including but not limited to, any type of food, drink, or pill.

“Executive Director” means the Executive Director of the Department of Revenue.

“Exit Package” means a sealed Container or package provided at the retail point of sale, in which any Medical Marijuana or Medical Marijuana-Infused Product already within a Container are placed.

“Final Agency Order” means an Order of the State Licensing Authority issued in accordance with the Medical Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

“Financial Interest” means any Direct Beneficial Interest Owner, a Commercially Reasonable Royalty Interest Holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product subject to the royalty, a Permitted Economic Interest holder, and any other Person who controls or is positioned so as to enable the exercise of control over the Medical Marijuana Business.

“Flammable Solvent” means a liquid that has a flash point below 100 degrees Fahrenheit.

“Flowering” means the reproductive state of *Cannabis* in which the plant is in a light cycle intended to stimulate production of flowers, trichromes, and cannabinoids characteristic of marijuana.

“Food-Based Medical Marijuana Concentrate” means a Medical Marijuana Concentrate that was produced by extracting cannabinoids from Medical Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

“Good Cause” for purposes of denial of an initial, renewal or reinstatement license application or certification, or for purposes of discipline of a license or certification, means:

a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Medical Code, any rules promulgated pursuant it, or any supplemental relevant state or local law, rule, or regulation;

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local licensing authority; or

c. The Licensee’s or the Applicant’s Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

“Good Moral Character” means having a personal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

“Harvest Batch” means a specifically identified quantity of processed Medical Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time.

“Identity Statement” means the name of the business as it is commonly known and used in any Advertising.

“Immature plant” means a nonflowering Medical Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and that is in a growing container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom. Plants meeting these requirements are not attributable to a Licensee’s maximum allowable plant count, but must be fully accounted for in the Inventory Tracking System.

"Indirect Beneficial Interest Owner" means a holder of a Permitted Economic Interest, a recipient of a Commercially Reasonable Royalty associated with the use of intellectual property by a Licensee, a Profit-Sharing Plan Employee, a Qualified Institutional Investor, or another similarly situated Person as determined by the State Licensing Authority. An Indirect Beneficial Interest Owner is not a Licensee. The Licensee must obtain Division approval for an Indirect Beneficial Interest Owner that constitutes a Financial Interest before such Indirect Beneficial Interest Owner may exercise any of the privileges of the ownership or interest with respect to the Licensee.

“Industrial Hemp” means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

“Industrial Hygienist” means an individual who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from and accredited college or university.

a. The special studies and training of such individuals shall be sufficient in the cognate sciences to provide the ability and competency to:

    1. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

    2. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;
    3. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

b. Any individual who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.

c. Any individual who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

“Initial Decision” means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing.

“Inventory Tracking System” means the required seed-to-sale tracking system that tracks Medical Marijuana from either the seed or immature plant stage until the Medical Marijuana or Medical Marijuana Infused-Product is sold to a customer at a Medical Marijuana Center or is destroyed.

“Inventory Tracking System Trained Administrator” means an Associated Key Licensee of a Medical Marijuana Business or an occupationally licensed employee of a Medical Marijuana Business, each of whom has attended and successfully completed Inventory Tracking System training and has completed any additional training required by the Division.

“Inventory Tracking System User” means an Associated Key Licensee of a Medical Marijuana Business or or an occupationally licensed Medical Marijuana Business employee who is granted Inventory Tracking System User account access for the purposes of conducting inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System Usermust have been successfully trained by Inventory Tracking System Trained Administrator(s) in the proper and lawful use Inventory Tracking System, and who has completed any additional training required by the Division.

“Key License” means an Occupational License for an individual who performs duties that are key to the Medical Marijuana Business’ operation and have the highest level of responsibility. Examples of individuals who need this type of license include, but are not limited to, managers and bookkeepers but do not include an Owner.

“Licensed Premises” means the premises specified in an application for a license pursuant to the Medical Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, or test Medical Marijuana in accordance with the provisions of the Medical Code and these rules.

“Licensee” means any Person licensed or registered pursuant to the Medical Code, including an Occupational Licensee.

“Limited Access Area” means a building, room, or other contiguous area upon the Licensed Premises where Medical Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee.

“Limit of Detection” or “LOD” means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

“Limit of Quantitation” or “LOQ” means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

“Material Change” means any change that would require a substantive revision to a Medical Marijuana Business’s standard operating procedures for the cultivation of Medical Marijuana or the production of a Medical Marijuana Concentrate or Medical Marijuana-Infused Product.
“Medical Code” means the Colorado Medical Marijuana Code found at sections 12-43.3-101 *et. seq*., C.R.S.

“Medical Marijuana” means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

“Medical Marijuana Business” means a licensed Medical Marijuana Center, a Medical Marijuana-Infused Products Manufacturer, an Optional Premises Cultivation Operation, a Medical Marijuana Testing Facility, a Medical Marijuana Business Operator, or a Medical Marijuana Transporter.

“Medical Marijuana Business Operator” means an entity that holds a registration from the State Licensing Authority to provide professional operational services to one or more Medical Marijuana Businesses for direct remuneration from the Medical Marijuana Business(es), which may include compensation based upon a percentage of the profits of the Medical Marijuana Business(es) being operated. A Medical

Marijuana Business Operator may contract with Medical Marijuana Business(es) to provide operational services. A Medical Marijuana Business Operator's contract with a Medical Marijuana Business does not in and of itself constitute ownership.

"Medical Marijuana Center" means a Person that is licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402, C.R.S., and that sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

"Medical Marijuana Concentrate" means a specific subset of Medical Marijuana that was produced by extracting cannabinoids from Medical Marijuana. Categories of Medical Marijuana Concentrate include Water-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate and Solvent-Based Medical Marijuana Concentrate.

"Medical Marijuana-Infused Product" means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the "Colorado Food and Drug Act," part 4 of Article 5 of Title 25, C.R.S.

"Medical Marijuana-Infused Products Manufacturer" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

"Medical Marijuana Testing Facility" means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Medical Marijuana, Medical Marijuana-Infused Products, and Medical Marijuana Concentrate for contaminants and potency.

"Medical Marijuana Transporter" means a Person that is licensed to transport Medical Marijuana and Medical Marijuana-Infused Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana-Infused Products at its licensed premises, but is not authorized to sell, give away, buy, or receive complimentary Medical Marijuana or Medical Marijuana-Infused Products under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana or Medical Marijuana-Infused Products.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Medical Marijuana Business Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Monitoring Company" means a Person in the business of providing Monitoring services for a Medical Marijuana Business.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Occupational License" means a license granted to an individual by the State Licensing Authority pursuant to section 12-43.3-401, C.R.S. An Occupational License may be an Associated Key License, a Key License or a Support License.
"Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

"Optional Premises Cultivation Operation" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner" means, except where the context otherwise requires, a Direct Beneficial Interest Owner.

"Permitted Economic Interest" means an Agreement to obtain an ownership interest in a Retail Marijuana Establishment or Medical Marijuana Business when the holder of such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying and obtaining a license as an owner under the Retail Code or Medical Code. A Permitted Economic Interest holder is an Indirect Beneficial Interest Owner.

"Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that "Person" does not include any governmental organization.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term "pesticide" shall not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration."

"Production Batch" means (a) any amount of Medical Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Medical Marijuana; or (b) any amount of Medical Marijuana Product of the same exact type, produced using the same ingredients, standard operating procedures and the same Production Batch(es) of Medical Marijuana Concentrate.

"Professional Engineer" means an individual who is licensed by the State of Colorado as a professional engineer pursuant to 12-25-101 et. seq., C.R.S.

"Proficiency Testing Samples" means performing the same analyses on the same Samples and comparing results to ensure the Samples are homogenous and stable, and also that the set of Samples analyzed are appropriate to test and display similarities and differences in results.

"Profit-Sharing Plan" means a profit-sharing plan that is qualified pursuant to 26 U.S.C. § 401 of the Internal Revenue Code and subject to the Employee Retirement Income Security Act, and which provides for employer contributions in the form of cash, but not in the form of stock or other equity interests in a Medical Marijuana Business.

"Profit-Sharing Plan Employee" means an employee holding an Occupational License who receives a share of a Medical Marijuana Business's profits through a Profit-Sharing Plan. A Profit-Sharing Plan Employee is an Indirect Beneficial Interest Owner.

"Propagation" means the reproduction of Medical Marijuana plants by seeds, cuttings or grafting.

"Qualified Institutional Investor" means:

a. A bank as defined in Section 3(a) (6) of the Federal Securities Exchange Act of 1934, as amended;

b. An insurance company as defined in Section 2(a) (17) of the Investment Company Act of 1940, as amended;

c. An investment company registered under Section 8 of the Investment Company Act of 1940, as amended;

d. An investment adviser registered under Section 203 of the Investment Advisers Act of 1940, as amended;

e. Collective trust funds as defined in Section 3(c) (11) of the Investment Company Act of 1940, as amended;

f. An employee benefit plan or pension fund that is subject to the Employee Retirement Income Security Act of 1974, as amended, excluding an employee benefit plan or pension fund sponsored by a licensed or an intermediary or holding company licensee which directly or indirectly owns five percent or more of a licensee;

g. A state or federal government pension plan; or

h. A group comprised entirely of persons specified in (a) through (g) of this definition.

A Qualified Institutional Investor is an Indirect Beneficial Interest Owner.

"Qualified Limited Passive Investor" means a natural person who is a United States citizen and is a passive investor who owns less than a five percent share or shares of stock in a licensed Medical Marijuana Business. A Qualified Limited Passive Investor is a Direct Beneficial Interest Owner.

"RFID" means Radio Frequency Identification.

"Resealable" means that the package maintains its Child-Resistant effectiveness for multiple openings.

"Respondent' means a person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument or a Licensee who is subject to an Order to Show Cause.

"Restricted Access Area" means a designated and secure area within a Licensed Premises in a Medical Marijuana Center where Medical Marijuana and Medical Marijuana-Infused Product are sold, possessed for sale, and displayed for sale, and where no one without a valid patient registry card is permitted.

"Retail Code" means the Colorado Retail Marijuana Code, found at sections 12-43.4-101 *et. seq*, C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

"Retail Marijuana Concentrate" means a specific subset of Retail Marijuana that was produced by extracting cannabinoids from Retail Marijuana. Categories of Retail Marijuana Concentrate include Water-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Solvent-Based Retail Marijuana Concentrate.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana Retail Marijuana Establishments, but not to consumers.

"Retail Marijuana Establishment" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, a Retail Marijuana Testing Facility, a Retail Marijuana Establishment Operator, or a Retail Marijuana Transporter.

“Retail Marijuana Establishment Operator” means an entity that holds a license from the State Licensing Authority to provide professional operational services to one or more Retail Marijuana Establishments for direct remuneration from the Retail Marijuana Establishment(s), which may include compensation based upon a percentage of the profits of the Retail Marijuana Establishment(s) being operated. A Retail Marijuana Establishment Operator contracts with Retail Marijuana Establishment(s) to provide operational services. A Retail Marijuana Business Operator’s contract with a Retail Marijuana Establishment does not in and of itself constitute ownership.

“Retail Marijuana Product” means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

“Retail Marijuana Products Manufacturing Facility” means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and sell Retail Marijuana and Retail Marijuana Product to other Retail Marijuana Products Manufacturing Facilities and to Retail Marijuana Stores, but not to consumers.

“Retail Marijuana Store” means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

“Retail Marijuana Testing Facility” means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Retail Marijuana, Retail Marijuana Products and Retail Marijuana Concentrate for contaminants and potency.

“Retail Marijuana Transporter” means a Person that is licensed to transport Retail Marijuana and Retail Marijuana Products from one Retail Marijuana Establishment to another Retail Marijuana Establishment and to temporarily store the transported Retail Marijuana and Retail Marijuana Products at its licensed premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana or Retail Marijuana Products under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana or Retail Marijuana Products.

“Sample” means anything collected from a Medical Marijuana Business that is provided for testing to a Medical Marijuana Testing Facility or a Retail Marijuana Testing Facility in accordance with Rule M 701 – Vendor Registration and Occupational License for Medical Marijuana Testing and Research. The following is a non-exhaustive list of types of Samples: Medical Marijuana, Medical Marijuana-Infused Product, Medical Marijuana Concentrate, soil, growing medium, water, solvent or swab of a counter or equipment.

“Security Alarm System” means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

“Shipping Container” means a hard-sided container with a lid or other enclosure that can be secured in place, and the container is used solely for the transport of Medical Marijuana or Medical Marijuana-Infused Product in bulk, or in a quantity for other Medical Marijuana Businesses.

“Solvent-Based Medical Marijuana Concentrate” means a Medical Marijuana Concentrate that was produced by extracting cannabinoids from Medical Marijuana through the use of a solvent approved by the Division pursuant to Rule M 605.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in Colorado, pursuant to section 12-43.3-201, C.R.S.

"Support License" means a license for an individual who performs duties that support the Medical Marijuana Business' operations. While a Support Licensee must conduct himself or herself professionally, he or she has limited decision making authority and always fall under the supervision of an Associated Key Licensee. Examples of individuals who need this type of license include, but are not limited to, sales clerks or cooks.

"THC" means tetrahydrocannabinol.

"THCA" means tetrahydrocannabinolic acid.

"Test Batch" means a group of Samples that are collectively submitted to a Medical Marijuana Testing Facility or a Retail Marijuana Testing Facility for testing purposes in accordance with Rule M 701 – Vendor Registration and Occupational License for Medical Marijuana Testing and Research. A Test Batch may not be a combination of any two or three of the following: Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana Product.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating the Medical Marijuana or Medical Marijuana Infused-Product contains marijuana.

"Unrecognizable" means marijuana or *Cannabis* plant material rendered indistinguishable from any other plant material.

"Vegetative" means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

"Water-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting cannabinoids from Medical Marijuana through the use of only water, ice, or dry ice.

M 200 Series – Licensing and Interests

Basis and Purpose – M 201

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), and 12-43.3-301(3), and sections 12-43.3-104, 12-43.3-305, 12-43.3-306, 12-43.3-307.5, 12-43.3-310, 12-43.3-313, 12-43.3-401, and 24-76.5-101, C.R.S. The purpose of this rule is to establish that only materially complete applications for licenses, accompanied by all required fees, will be accepted and processed by the Division. The purpose of this rule is also to clarify that when an initial application is materially complete, but the Division determines further information is required before the application can be fully processed, the Applicant must provide the additional requested information within the time frame provided by the Division. Otherwise, the Division cannot act on the application in a timely manner, and the application may be denied.

M 201 – Application Process

A. General Requirements

1. All applications for licenses authorized pursuant to subsections 12-43.3-401(1)(a)-(g), C.R.S., shall be made upon current forms prescribed by the Division.

2. A license issued to a Medical Marijuana Business or an individual constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. Each application shall identify the local licensing authority.

4. Applicants must submit a complete application to the Division before it will be accepted or considered.

    a. All applications must be complete and accurate in every material detail.

    b. All applications must include all attachments or supplemental information required by the current forms supplied by the Division.

    c. All applications must be accompanied by a full remittance for the whole amount of the application and license fees. See Rules M 207 – Schedule of Application Fees: Medical Marijuana Businesses; M 208 – Schedule of Business License Fees: Medical Marijuana Businesses; M 209 – Schedule of Business Renewal License Fees: Medical Marijuana Businesses; M 235 – Schedule of License Fees: Individuals; M 236 – Schedule of Renewal License Fees: Individuals.

    d. All applications must include all information required by the Division related to the Applicant's proposed Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners and Qualified Limited Passive Investors, and all other direct and indirect financial interests in the Applicant.

    e. At a minimum, each Applicant for a new license shall provide, at the time of application, the following information:

        i. For each Associated Key License Applicant, evidence of proof of lawful presence, citizenship, if applicable, residence, if applicable, and Good Moral Character as required by the current forms prescribed by the Division;

        ii. For each Medical Marijuana Business Applicant and each Associated Key License Applicant, all requested information concerning financial and management associations and interests of other Persons in the business;

        iii. If the Applicant for any license pursuant to the Medical Code is a Closely Held Business Entity it shall submit with the application:

            A. The Associated Key License applications for all of its shareholders, members, partners, officers and directors who do not already hold an Associated Key License;

            B. If the Closely Held Business Entity is a corporation, a copy of its articles of incorporation or articles of organization; evidence of authorization from the Colorado Secretary of State to do business within this

State, and for each shareholder: his or her name, mailing address, state of residence and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business;

C. If the Closely Held Business Entity is a limited liability company, a copy of its articles of incorporation and its operating agreement; evidence of authorization from the Colorado Secretary of State to do business within this State, and for each member: his or her name, mailing address, state of residence and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business;

D. If the Closely Held Business Entity is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, a copy of the partnership agreement and, for each partner, his or her name, mailing address and state of residency and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business.

iv. For each Medical Marijuana Business Applicant and each Associated Key License Applicant, documentation establishing compliant return filing and payment of taxes related to any Medical Marijuana Business or Retail Marijuana Establishment in which such Applicant is, or was, required to file and pay taxes;

v. For each Medical Marijuana Business Applicant and each Associated Key License Applicant, documentation verifying and confirming the funds used to start and/or sustain the operation of the medical or retail marijuana business were lawfully earned or obtained;

vi. Accurate floor plans for the premises to be licensed; and

viii. The deed, lease, sublease, contract, or other document(s) governing the terms and conditions of occupancy of the premises to be licensed.

5. All applications to reinstate a license will be deemed applications for new licenses. This includes, but is not limited to, Associated Key licenses that have expired, Medical Marijuana Business licenses that have been expired for more than 90 days, licenses that have been voluntarily surrendered, and licenses that have been revoked.

6. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Upon request by the Division, an Applicant shall provide any additional information required to process and fully investigate the application. The

additional information must be provided to the Division no later than seven days after the request is made unless otherwise specified by the Division.

2. An Applicant's failure to provide the requested evidence or information by the Division deadline may be grounds for denial of the application.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made misstatements, omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis for additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Medical Code, the Retail Code, of for any other state or local law enforcement purpose or as otherwise required by law.

E. Division Application Management and Local Licensure.

1. For each application for a new Medical Marijuana Business, the Applicant shall submit the original application and one identical copy. The Division will retain the original application for a new Medical Marijuana Business and will send the copy to the local licensing authority.

2. If the Division grants a license before the local licensing authority approves the application or grants a local license, the license will be conditioned upon local approval. Such condition will not be viewed as a denial pursuant to the Administrative Procedure Act. If the local licensing authority denies the application, the state license will be revoked.

3. An Applicant is prohibited from operating a Medical Marijuana Business prior to obtaining all necessary licenses or approvals from both the State Licensing Authority and the local licensing authority.

4. Each Financial Interest is void and of no effect unless and until approved by the Division. A Financial Interest shall not exercise any privilege associated with the proposed interest until approved by the Division. Any violation of this requirement may be considered a license violation affecting public safety.

M 201.5 – Repealed effective January 1, 2017.

M 202 – Repealed effective January 1, 2017.

Basis and Purpose – M 202.1

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XVIII.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2)(a)(XXI), and sections 12-43.3-104, 12-43.3-305 and 12-43.3-306, 12-43.3-307.5, 12-43.3-310 and 12-43.3-313 C.R.S. The purpose of this rule is to clarify the process to be followed when a Medical Marijuana Business applies to obtain financing or otherwise have a relationship with an Indirect Beneficial Interest Owner. This rule establishes that only materially complete Medical Marijuana Business applications for Indirect Beneficial Interest Owners, accompanied by all required fees, will be accepted and processed by the Division. This rule also clarified that when an initial application is materially complete and accepted, but the Division determines further information is required before the application can be fully processed, the Medical Marijuana Business Applicant must provide the additional requested information within the time frame provided by the Division. Otherwise, the Division cannot act on the application in a timely manner and the Medical Marijuana Business' application may be denied. The rule also sets forth requirements for the contents of the contract or Agreement between Medical Marijuana Businesses and Indirect Beneficial Interest Owners, which reflect basic legal requirements surrounding the relationship between the parties.

M 202.1 – Applications, Agreements, Contracts and Certifications Required for Indirect Beneficial Interest Owners: Medical Marijuana Businesses

A. Medical Marijuana Business Initiates Process. The Medical Marijuana Business seeking to obtain financing or otherwise establish any type of relationship with an Indirect Beneficial Interest Owner, including a Permitted Economic Interest, a Commercially Reasonably Royalty Interest Holder, a Profit-Sharing Plan Employee, or a Qualified Institutional Investor, must file all required documents with the Division, including any supplemental documents requested by the Division in the course of its review of the application.

B. General Requirements. The Medical Marijuana Business seeking approval of an Indirect Beneficial Interest Owner must meet the following requirements:

1. All applications for approval of an Indirect Beneficial Interest Owner shall be made upon current forms prescribed by the Division.

2. The burden of proving that a proposed Indirect Beneficial Interest Owner is qualified to hold such an interest rests at all times with the Medical Marijuana Business submitting the application.

3. The Medical Marijuana Business applying for approval of any type of Indirect Beneficial Interest Owner must submit a complete application to the Division before it will be accepted or considered.

4. All applications must be complete and accurate in every material detail.

5. All applications must include all attachments or supplemental information required by the current forms supplied by the Division.

6. All applications must be accompanied by a full remittance of the required fees.

7. The Division may refuse to accept an incomplete application.

8. The proposed holder of the Indirect Beneficial Interest is not a publicly traded company.

9. Additional Information May Be Required

a. Upon request by the Division, a Medical Marijuana Business applying to have any type of Indirect Beneficial Interest Owner shall provide any additional information required to process and fully investigate the application. The additional information must be provided to the Division no later than seven days after the request is made unless otherwise specified by the Division.

b. Failure to provide the requested information by the Division's deadline may be grounds for denial of the application.

C. Information Must Be Provided Truthfully. A Medical Marijuana Business applying for approval of any type of Indirect Beneficial Interest Owner shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where any party made misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the proposed Indirect Beneficial Interest Owner. This type of conduct may be considered as the basis for additional administrative action against the Medical Marijuana Business and it may also be the basis for criminal charges against either the Medical Marijuana Business Applicant or the Indirect Beneficial Interest Owner.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Medical Code, the Retail Code or for any other state or local law enforcement purpose or as otherwise required by law.

E. Approval of Financial Interest. Each Financial Interest in a Medical Marijuana Business is void and of no effect unless and until approved by the Division. Any amendment of a Financial Interest is also void and of no effect unless and until approved by the Division.

F. Ongoing Qualification and Violation Affecting Public Safety. If at any time the Division finds any Indirect Beneficial Interest Owner is not qualified, or is no longer qualified, the Division may require the Medical Marijuana Business to terminate its relationship with and financial ties to the Indirect Beneficial Interest Owner within a specified time period. Failure to terminate such relationship and financial ties within the specified time period may constitute a violation affecting public safety and be a basis for administrative action against the Medical Marijuana Business.

G. Permitted Economic Interest Holder Requirements. At the time of application, a Medical Marijuana Business seeking to obtain approval of a Permitted Economic Interest shall provide evidence to establish that the natural person seeking to become a Permitted Economic Interest holder is a lawful resident of the United States and shall provide documentation verifying and confirming the funds used for the Permitted Economic Interest were lawfully earned or obtained.

H. Permitted Economic Interest Agreement Requirements. The Medical Marijuana Business Applicant seeking to obtain financing from a Permitted Economic Interest must submit a copy of the Agreement between the Medical Marijuana Business and the person seeking to hold a Permitted Economic Interest. The following requirements apply to all Agreements:

1. The Agreement must be complete, and must fully incorporate all terms and conditions.

2. The following provisions must be included in the Agreement:

   a. Any interest in a Medical Marijuana Business, whether held by a Permitted Economic Interest or any other person, must be acquired in accordance with the provisions of the Medical Code and/or Retail Code, as applicable, and the rules promulgated thereunder. The issuance of any Agreement or other interest in violation thereof shall be void. The Permitted Economic Interest holder shall not provide funding to the Medical Marijuana Business until the Permitted Economic Interest is approved by the Division.

   b. No Agreement or other interest issued by the Medical Marijuana Business and no claim or charge therein or thereto shall be transferred except in accordance with the provisions of the Medical Code and/or Retail Code as applicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void.

   c. The Medical Marijuana Business and the Permitted Economic Interest holder must sign an affirmation of passive investment on a form approved by the Division.

   d. The Medical Marijuana Business must initiate any process to convert a Permitted Economic Interest to a Direct Beneficial Interest Owner and the process to convert the Permitted Economic Interest into a Direct Beneficial Interest Owner must be completed prior to the expiration or termination of the Agreement. The holder of the Permitted Economic Interest must meet all qualifications for licensure and ownership pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder prior to conversion of the Permitted Economic Interest to a Direct Beneficial Interest Owner.

   e. At the election of the Medical Marijuana Business, if the holder of the Permitted Economic Interest is not qualified for licensure as a Direct Beneficial Interest Owner but is qualified as a holder of the Permitted Economic Interest, and the Permitted Economic Interest is also approved by the Division then the Permitted Economic Interest may remain in force and effect for as long as it remains approved by the Division under the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

   f. The Permitted Economic Interest holder shall disclose in writing to the Division and to the Medical Marijuana Business any and all disqualifying events, within ten days after occurrence of the event, that could lead to a finding that the holder no longer qualifies to hold the Permitted Economic Interest and/or that could lead to a denial of licensure pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder.

   g. The Medical Marijuana Business shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which could lead to a finding that the holder is no longer qualified to hold the Permitted Economic Interest and/or that could lead to a denial of licensure pursuant to the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

   h. A Permitted Economic Interest holder's or a Medical Marijuana Business' failure to make required disclosures may be grounds for administrative

action including but not limited to denial of a subsequent request to convert the Permitted Economic Interest into an ownership interest in the Medical Marijuana Business. Failure to make required disclosures may lead to a finding that the Permitted Economic Interest is no longer approved, and a requirement that the Medical Marijuana Business terminate its relationship with the Permitted Economic Interest holder.

i. The Permitted Economic Interest holder agrees and acknowledges that it has no entitlement or expectation of being able to invest in, or have a relationship with, the Medical Marijuana Business unless and until the Division determines the Permitted Economic Interest is approved. The Permitted Economic Interest holder agrees and acknowledges that its relationship with the Medical Marijuana Business is contingent upon Division approval. The Permitted Economic Interest holder understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Permitted Economic Interest or find that the Permitted Economic Interest is no longer qualified. The Permitted Economic Interest Holder agrees and acknowledges it has no entitlement to or expectation of the Division approving the Permitted Economic Interest. The Permitted Economic Interest holder further agrees that any administrative or judicial review of a determination by the Division regarding the qualification or approval of the Permitted Economic Interest will only occur through licensing or enforcement proceedings involving the Medical Marijuana Business. The Permitted Economic Interest holder further agrees and acknowledges that the Permitted Economic Interest holder shall only be entitled to notice of a denial or administrative action concerning the Medical Marijuana Business if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest holder. The Permitted Economic Interest holder also agrees and acknowledges that the Permitted Economic Interest holder may only request leave to intervene in an administrative proceeding against the Medical Marijuana Business, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest holder. Furthermore, the Permitted Economic Interest holder agrees and acknowledges that the Permitted Economic Interest holder may only seek judicial review of an action against the Medical Marijuana Business, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest Holder. THE PERMITTED ECONOMIC INTEREST HOLDER KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE PERMITTED ECONOMIC INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE MEDICAL MARIJUANA BUSINESS, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE PERMITTED ECONOMIC INTEREST, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE MEDICAL MARIJUANA BUSINESS.

I. Commercially Reasonable Royalty Interest Contract Requirements. A Medical Marijuana Business seeking to utilize the intellectual property of a Commercially Reasonable

Royalty Interest Holder must submit a copy of the contract between the Medical Marijuana Business and the Person seeking to hold a Commercially Reasonable Royalty Interest. The following requirements apply to all such contracts:

1. The contract must be complete, and must fully incorporate all terms and conditions.

2. The following provisions must be included in the contract:

    a. Any interest in a Medical Marijuana Business, whether held by a Commercially Reasonable Royalty Interest Holder or any other person, must be acquired in accordance with the provisions of the Medical Code and/or Retail Code, as applicable, and the rules promulgated thereunder. The issuance of any contract or other interest in violation thereof shall be void.

    b. No contract, royalty or other interest issued by the Medical Marijuana Business and no claim or charge therein or thereto shall be transferred except in accordance with the provisions of the Medical Code and/or Retail Code as applicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void.

    c. The Medical Marijuana Business and the Commercially Reasonable Royalty Interest Holder must sign an affirmation of passive investment on a form approved by the Division.

    d. The Commercially Reasonable Royalty Interest Holder shall disclose in writing to the Division and to the Medical Marijuana Business any and all disqualifying events, within ten days after occurrence of the event, that could lead to a finding that the Commercially Reasonable Royalty Interest Holder is not qualified to hold the Commercially Reasonable Royalty Interest.

    e. The Medical Marijuana Business shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which would lead to a finding that the Commercially Reasonable Royalty Interest Holder is not qualified to hold the Commercially Reasonable Royalty Interest.

    f. A Commercially Reasonable Royalty Interest Holder's or a Medical Marijuana Business' failure to make required disclosures may lead to a finding that the Commercially Reasonable Royalty Interest is not approved, or is no longer approved, and may lead to a requirement that the Medical Marijuana Business terminate its relationship with the Commercially Reasonable Royalty Interest Holder.

    g. The Commercially Reasonable Royalty Interest Holder agrees and acknowledges that its relationship with the Medical Marijuana Business is contingent upon Division approval throughout the entire term of its relationship with the Medical Marijuana Business. The Commercially Reasonable Royalty Interest Holder understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, find that the Commercially Reasonable Royalty Interest Holder does not qualify or no longer qualifies. The Commercially Reasonable Royalty Interest Holder agrees and acknowledges it has no entitlement to

or expectation to approval of the Commercially Reasonable Royalty Interest.

h. The Commercially Reasonable Royalty Interest Holder further agrees that any administrative or judicial review of a determination by the Division approving or denying the Commercially Reasonable Royalty will only occur through licensing or enforcement proceedings involving the Medical Marijuana Business. The Commercially Reasonable Royalty Interest Holder further agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder shall only be entitled to notice of a denial or administrative action concerning the Medical Marijuana Business if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. The Commercially Reasonable Royalty Interest Holder also agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder may only request leave to intervene in an administrative proceeding against the Medical Marijuana Business, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. Furthermore, the Commercially Reasonable Royalty Interest Holder agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder may only seek judicial review of an action against the Medical Marijuana Business, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE MEDICAL MARIJUANA BUSINESS, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE MEDICAL MARIJUANA BUSINESS.

i. If the Division determines the Commercially Reasonable Royalty Interest Holder is not in compliance with the Medical Code, the Retail Code, or these rules, then the recipient shall discontinue sales of any product or line of products containing any of that Commercially Reasonable Royalty Interest Holder's intellectual property within thirty (30) days of the Division finding. The recipient shall not pay any remuneration to a Commercially Reasonable Royalty Interest Holder that does not qualify under the Medical Code and these rules, including but not limited to Rule M 231.2(B).

j. The Commercially Reasonable Royalty Interest Holder shall neither exercise control over nor be positioned so as to enable the exercise of control over the Medical Marijuana Business. Notwithstanding the foregoing, a Commercially Reasonable Royalty Interest Holder may influence the marketing, advertising, labeling and display of the product or line of products for which the Commercially Reasonably Royalty

Interest exists so long as such influence is not inconsistent with the Medical Code or these rules.

J. Profit-Sharing Plan Documents. A Medical Marijuana Business offering licensed employees a share of the profits through a Profit-Sharing Plan must submit a list of all proposed participants in the Profit-Sharing Plan along with their names, addresses and occupational license numbers and submit a copy of all documentation regarding the Profit-Sharing Plan in connection with the Medical Marijuana Business' application:

1. The documents establishing the Profit-Sharing Plan must be complete and must fully incorporate all terms and conditions.

2. The following provisions must be included in the documents establishing the Profit-Sharing Plan:

   a. Any interest in a Medical Marijuana Business, whether held by a Profit-Sharing Plan Employee or any other person, must be acquired in accordance with the provisions of the Medical Code and/or Retail Code, as applicable, and the rules promulgated thereunder. The issuance of any contract or other interest in violation thereof shall be void. Any distributions from a Profit-Sharing Plan must be made in cash, not in the form of stock or other equity interests in the Medical Marijuana Business.

   b. No contract or other interest issued by the Medical Marijuana Business and no claim or charge therein or thereto shall be transferred except in accordance with the provisions of the Medical Code and/or Retail Code as applicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void.

   c. The Medical Marijuana Business shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which would lead to a finding that any Profit-Sharing Plan Employee does not qualify under the Medical Code and these rules, including but not limited to Rule M 231.2(B), to participate in the Profit-Sharing Plan.

   d. A Profit-Sharing Plan Employee shall disclose in writing to the Division and to the Medical Marijuana Business any and all disqualifying events, within ten days after occurrence of the event that could lead to a finding that the Profit-Sharing Plan Employee does not qualify or no longer qualifies under the Medical Code and these rules, including but not limited to Rule M 231.2(B), to participate in the Profit-Sharing Plan.

   e. A Medical Marijuana Business' or a Profit-Sharing Plan Employee's failure to make required disclosures may lead to a finding that the Profit-Sharing Plan is not approved, and may lead to a requirement that the Medical Marijuana Business terminate or modify the Profit-Sharing Plan.

   f. The Profit-Sharing Plan Employee agrees and acknowledges that its relationship with the Medical Marijuana Business is contingent upon Division approval throughout the entire term of its relationship with the Medical Marijuana Business. The Profit-Sharing Plan Employee understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Profit-Sharing Plan. The Profit-Sharing Plan Employee agrees and

acknowledges he or she has no entitlement to or expectation to Division approval of the Profit-Sharing Plan or the Profit-Sharing Plan Employee's participation in the plan. The Profit-Sharing Plan Employee further agrees that any administrative or judicial review of a determination by the Division approving or denying the Profit-Sharing Plan or the Profit-Sharing Plan Employee will only occur through licensing or enforcement proceedings involving the Medical Marijuana Business. Each Profit-Sharing Plan Employee further agrees and acknowledges that the Profit-Sharing Plan Employee shall only be entitled to notice of a denial or administrative action concerning the Medical Marijuana Business if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. The Profit-Sharing Plan Employee also agrees and acknowledges that the Profit-Sharing Plan Employee may only request leave to intervene in an administrative proceeding against the Medical Marijuana Business, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. Furthermore, the Profit Sharing Plan Employee agrees and acknowledges that the Profit-Sharing Plan Employee may only seek judicial review of an action against the Medical Marijuana Business, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. THE PROFIT-SHARING PLAN EMPLOYEE KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE PROFIT-SHARING PLAN OR THE PROFIT-SHARING PLAN EMPLOYEE BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE MEDICAL MARIJUANA BUSINESS, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE PROFIT-SHARING PLAN OR THE PROFIT-SHARING PLAN EMPLOYEE'S QUALIFICATIONS OR ACTIONS OF THE PROFIT-SHARING PLAN EMPLOYEE, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE MEDICAL MARIJUANA BUSINESS.

K. Qualified Institutional Investor Requirements. Before a Medical Marijuana Business may permit a Qualified Institutional Investor to own any portion of the Medical Marijuana Business, the Medical Marijuana Business must submit the following documentation to the Division in connection with the Medical Marijuana Business' application:

1. A description of the Qualified Institutional Investor's business and a statement as to why the Qualified Institutional Investor meets the definition of Qualified Institutional Investor in Rule R 103 and subsection 12-43.3-307.5(7), C.R.S.

2. A certification made under oath and the penalty of perjury by the Qualified Institutional Investor:

    a. That the ownership interests were acquired and are held for investment purposes only and were acquired and are held in the ordinary course of business as a Qualified Institutional Investor and not for the purposes of causing, directly or indirectly, the election of a majority of the board of directors, any change in the corporate charter, bylaws, management, policies, or operations of a Medical Marijuana Business.

b. That the Qualified Institutional Investor is bound by and shall comply with the Medical Code and the rules adopted pursuant thereto, is subject to the jurisdiction of the courts of Colorado, and consents to Colorado as the choice of forum in the event any dispute, question, or controversy arises regarding the Qualified Institutional Investor's relationship with the Medical Marijuana Business or activities pursuant to the Medical Code and rules adopted pursuant thereto.

c. The Qualified Institutional Investor agrees and acknowledges that its relationship with the Medical Marijuana Business is contingent upon Division approval throughout the entire term of its relationship with the Medical Marijuana Business. The Qualified Institutional Investor understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Qualified Institutional Investor. The Qualified Institutional Investor agrees and acknowledges it has no entitlement to or expectation to Division approval of the Qualified Institutional Investor. The Qualified Institutional Investor further agrees that any administrative or judicial review of a determination by the Division approving or denying the Qualified Institutional Investor will only occur through licensing or enforcement proceedings involving the Medical Marijuana Business. The Qualified Institutional Investor further agrees and acknowledges that the Qualified Institutional Investor shall only be entitled to notice of a denial or administrative action concerning the Medical Marijuana Business if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Qualified Institutional Investor. The Qualified Institutional Investor also agrees and acknowledges that the Qualified Institutional Investor may only request leave to intervene in an administrative proceeding against the Medical Marijuana Business, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. Furthermore, the Qualified Institutional Investor agrees and acknowledges that the Qualified Institutional Investor may only seek judicial review of an action against the Medical Marijuana Business, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. THE QUALIFIED INSTITUTIONAL INVESTOR KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE COMMERCIALLY REASONABLE INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE MEDICAL MARIJUANA BUSINESS, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE MEDICAL MARIJUANA BUSINESS.

d. An explanation of the basis of the signatory's authority to sign the certification and to bind the Qualified Institutional Investor to its terms.

3. The name, address, telephone number and any other information requested by the Division as required on its approved forms for the officers and directors, or

their equivalent, of the Qualified Institutional Investor as well as those Persons that have direct control over the Qualified Institutional Investor's ownership interest in the Medical Marijuana Business.

4. The name, address, telephone number and any other information requested by the Division as required on its approved forms for each Person who has the power to direct or control the Qualified Institutional Investor's voting of its shares in the Medical Marijuana Business.

5. The name of each Person that beneficially owns 5 percent or more of the Qualified Institutional Investor's voting securities or other equivalent.

6. A list of the Qualified Institutional Investor's affiliates.

7. A list of all regulatory agencies with which the Qualified Institutional Investor files periodic reports, and the name, address, and telephone number of the individual, if known, to contact at each agency regarding the Qualified Institutional Investor.

8. A disclosure of all criminal or regulatory sanctions imposed during the preceding 10 years and of any administrative or court proceedings filed by any regulatory agency during the preceding 5 years against the Qualified Institutional Investor, its affiliates, any current officer or director, or any former officer or director whose tenure ended within the preceding 12 months. As to a former officer or director, such information need be provided only to the extent that it relates to actions arising out of or during such person's tenure with the Qualified Institutional Investor or its affiliates.

9. A copy of any filing made under 16 U.S.C § 18a with respect to the acquisition or proposed acquisition of an ownership interest in the Medical Marijuana Business.

10. Any additional information requested by the Division.

M 202.5 – Repealed Effective January 1, 2017.

Basis and Purpose – M 203

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XVIII.5), 12-43.3-202(2)(a)(XX), 12.43.3-307(2)(c), and 12-43.3-310(7) and sections 12-43.3-104 and 12-43.3-311, C.R.S. The purpose of this rule is to establish how licenses can be renewed.

M 203 – Process for Renewing a License: Medical Marijuana Businesses

A. General Process for License Renewal

1. The Division will send a notice for license renewal 90 days prior to the expiration of an existing license by first class mail to the Licensee's mailing address of record.

2. A Licensee may apply for the renewal of an existing license not less than 30 days prior to the license's expiration date. If a Licensee timely applies for the renewal of an existing license, the Division may administratively continue the license beyond the expiration date while it completes the renewal licensing process.

3. If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the untimely filing. If the Division accepts the application, then the Division may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.

4. An application for renewal will only be accepted if it is accompanied by:

   a. The requisite licensing fees. *See* Rule M 209 - Schedule of Business License Renewal Fees: Medical Marijuana Businesses.

   b. A copy of the local licensing authority's approval.

5. Each Direct Beneficial Interest Owner required to have an Associated Key License must be fingerprinted at least every two years, and may be fingerprinted more often at the Division's discretion.

6. The Division shall perform a limited background check, which may include fingerprinting, regarding Qualified Limited Passive Investors and other Financial Interests that are Indirect Beneficial Interest Owners. If the background check provides reasonable cause for additional investigation, the Division may require additional investigation.

7. For each renewal application, the Licensee shall submit the original application and one identical copy. The Division will retain the original renewal application and will send the copy to the local licensing authority.

B. Failure to Receive a Notice for License Renewal. Failure to receive a notice for license renewal does not relieve a Licensee of the obligation to renew all licenses as required.

C. If License Not Renewed Before Expiration or Administratively Continued. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required fees.

1. In the event the license is not renewed prior to expiration, a Medical Marijuana Business may not operate unless it has been administratively continued.

2. If a former Medical Marijuana Business Licensee files an application within 90 days of expiration of its license with the Division and pays the requisite fees to the Division, the Division may administratively continue the license from the date the application was received until it can complete its renewal application process and investigate the extent to which the Medical Marijuana Business operated with an expired license.

3. The Division will not renew any Medical Marijuana Business license expired over 90 days prior to submission of the Medical Marijuana Business Licensee's renewal application, nor will it renew any license that has been voluntarily surrendered, or any license that has been revoked. A Medical Marijuana Business license that expired over 90 days prior to submission of the Medical Marijuana Business Licensee's renewal application, a license that has been voluntarily surrendered, and a license that has been revoked may only be reinstated via an application for a new license that is subsequently approved by the Division or the State Licensing Authority.

D. Licenses Subject to Ongoing Discipline and/or Summary Suspension. Licenses that are the subject of a summary suspension, a disciplinary action, and/or any other administrative action are subject to the requirements of this rule. Licenses that are not timely renewed shall expire. *See* Rules M 1301 – Disciplinary Process: Non-Summary Suspension and M 1302 – Disciplinary Process: Summary Suspensions.

E. Closely Held Business Entity Direct Beneficial Interest Owners. Closely Held Business Entity Direct Beneficial Interest Owners must submit a current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Medical Marijuana Business certifying that each Associated Key License owner of the Closely Held Business Entity has maintained, and currently maintains, United States citizenship.

F. Indirect Beneficial Interest Owners and Qualified Limited Passive Investors. At the time of renewal, a Medical Marijuana Business shall disclose any and all Indirect Beneficial Interest Owners and Qualified Limited Passive Investors that hold an interest in the Medical Marijuana Business. Additionally, the Medical Marijuana Business must present updated information regarding all Indirect Beneficial Interest Owners and Qualified Limited Passive Investors at the time the Medical Marijuana Business submits its renewal materials:

1. Current Division Indirect Beneficial Interest Owners and Qualified Limited Passive Investors renewal disclosure forms;

2. Current Division form allowing the Division to investigate any Indirect Beneficial Interest Owner(s) and/or Qualified Limited Passive Investor(s) if the Division deems such investigation necessary. The form shall be signed by all Direct Beneficial Interest Owner(s) of the Medical Marijuana Business;

3. Permitted Economic Interest holders, at the discretion of the Division, may be required to submit new fingerprints;

4. Current Division certification form attesting that all Qualified Limited Passive Investor(s) and/or Indirect Beneficial Interest Owner(s) remain qualified under the Medical Code and these rules. The form shall be signed by all Direct Beneficial Interest Owner(s) of the Medical Marijuana Business;

5. For Permitted Economic Interest Holder, current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Medical Marijuana Business and the particular Permitted Economic Interest holder, certifying that he or she has maintained, and currently maintains, lawful residence in the United States; and

6. For Qualified Limited Passive Investors, current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Medical Marijuana Business and the particular Qualified Limited Passive Investor, certifying that he or she has maintained, and currently maintains, United States citizenship.

Basis and Purpose – M 204

The statutory authority for this rule is found at subsections 12-43.3-104(1), 12-43.3-104(1.7), 12-43.3-104(12.4), 12-43.3-104(14.3), 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-202(2)(a)(XXI), and 12-43.3-310(7) and (11), and sections 12-43.3-307.5, 12-43.3-313 and 12-43.3-601, C.R.S. The purpose of this rule is to provide clarity regarding the nature of a Direct Beneficial Interest Owner and an Indirect Beneficial Interest Owner, and to clarify what factors the

State Licensing Authority generally considers regarding the same. The Division will review all relevant information to determine ownership of a Medical Marijuana Business.

M 204 – Ownership Interests of a License: Medical Marijuana Businesses

A. Licenses Held By Direct Beneficial Interest Owners. Each Medical Marijuana Business License must be held by its Direct Beneficial Interest Owner(s). Each natural person other than a Qualified Limited Passive Investor must hold an Associated Key License. A Direct Beneficial Interest Owner shall not be a publicly traded company.

B. 100% Ownership.

1. The sum of the percentages of ownership of all Direct Beneficial Interest Owners of a Medical Marijuana Business and Qualified Institutional Investors must equal 100%.

a. Qualified Institutional Investors may hold ownership interests, in the aggregate, of 30% or less in the Medical Marijuana Business.

b. A Qualified Limited Passive Investor must be a natural person who is a United States citizen and may hold an ownership interest of less than five percent in the Medical Marijuana Business.

c. Each Direct Beneficial Interest Owner, including but not limited to each officer, director, managing member, or partner of a Medical Marijuana Business, must hold a current and valid Associated Key License. *See* Rule M 233 – Retail Code or Medical Code Occupational Licenses Required. Except that this requirement shall not apply to Qualified Limited Passive Investors.

d. With the exception of Qualified Institutional Investors, only Direct Beneficial Interest Owners may hold a partnership interest, limited or general, a joint venture interest, or ownership of a share or shares in a corporation or a limited liability company which is licensed.

e. In the event of the death, disability, disqualification, divestment, termination, or revocation of the license of a Direct Beneficial Interest Owner or of approval of a Qualified Institutional Investor, a Medical Marijuana Business shall have 45 days to submit a change of ownership application to the Division detailing the Licensee's plan for redistribution of ownership among the remaining Direct Beneficial Interest Owners and Qualified Institutional Investors. Such plan is subject to approval by the Division. If a change of ownership application is not timely submitted, the Medical Marijuana Business and its Associated Key Licensee(s) may be subject to administrative action.

C. At Least One Associated Key License Required. No Medical Marijuana Business may operate or be licensed unless it has at least one Associated Key Licensee that is a Direct Beneficial Interest Owner who has been a Colorado resident for at least one year prior to application. Any violation of this requirement may be considered a license violation affecting public safety.

D. Loss Of Occupational License As An Owner Of Multiple Businesses. If an Associated Key License is suspended or revoked as to one Medical Marijuana Business or Retail Marijuana Establishment, that Owner's Occupational License shall be suspended or

revoked as to any other Medical Marijuana Business or Retail Marijuana Establishment in which that Person possesses an ownership interest. *See* Rule M 233 – Medical Code or Retail Code Occupational Licenses Required.

E. Management Companies. Any Person contracted to manage the overall operation of a Licensed Premises must hold a Medical Marijuana Operator license.

F. Role of Managers. Associated Key Licensees may hire managers, and managers may be compensated on the basis of profits made, gross or net. A Medical Marijuana Business license may not be held in the name of a manager who is not a Direct Beneficial Interest Owner. A manager who does not hold an Associated Key License as a Direct Beneficial Interest Owner of the Medical Marijuana Business, must hold a Key License as an employee of the Medical Marijuana Business. Any change in manager must be reported to the Division and any local licensing authority before the new manager begins managing the Medical Marijuana Business. Additionally, a Medical Marijuana Operator may include management services as part of the operational services provided to a Medical Marijuana Business. A Medical Marijuana Business and its Direct Beneficial Interest Owners may be subject to license denial or administrative action, including but not limited to, fine, suspension or revocation of their license(s), based on the acts and omissions of any manager, Medical Marijuana Business Operator, or agents and employees thereof engaged in the operations of the Medical Marijuana Business.

Basis and Purpose – M 204.5

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(I), 12-43.3-202(2)(a)(XVIII.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2)(a)(XXI) and 12-43.3-202(3)(a)(XVI) and sections 12-43.3-104, 12-43.3-305, 12-43.3-307, 12-43.3-307.5, 12-43.3-309, 12-43.3-310, 12-43.3-311 and 12-43.3-313, C.R.S. The purpose of this rule is to clarify the application, review and approval process for various types of Business Interests. The Division will review all relevant information to determine ownership of, interests in, and control of a Medical Marijuana Business.

M 204.5 – Disclosure, Approval and Review of Business Interests

A. Business Interests. A Medical Marijuana Business shall disclose all Business Interests at the time of initial application and at the time of each renewal application. Business Interests include Financial Interests and Affiliated Interests. Any Financial Interest must be pre-approved by the Division. It shall be unlawful to fail to completely report all Business Interests in each license issued. It shall be unlawful for a person other than a Financial Interest holding an Associated Key License to exercise control over a Medical Marijuana Business or to be positioned so as to enable the exercise of control over a Medical Marijuana Business. Except that a Qualified Institutional Investor and a Qualified Limited Passive Investor may vote his, her or its shares in the Medical Marijuana Business.

B. Financial Interests. A Medical Marijuana Business shall not permit any Person to hold or exercise a Financial Interest in the Medical Marijuana Business unless and until such Person's Financial Interest has been approved by the Division. If a Medical Marijuana Business wishes to permit a Person to hold or exercise a Financial Interest, and that Person has not been previously approved in connection with an application for the Medical Marijuana Business, the Medical Marijuana Business shall submit a change of ownership or financial interest form approved by the Division. A Financial Interest shall include:

1. Any Direct Beneficial Interest Owner;

2. The following types of Indirect Beneficial Interest Owners:

    a. A Commercially Reasonable Royalty Interest Holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product or line of products subject to the royalty; and

    b. A Permitted Economic Interest holder.

3. Control. Any other Person who exercises control or is positioned so as to enable the exercise of control over the Medical Marijuana Business must hold an Associated Key License. A natural person who exercises control or is positioned so as to enable the exercise of control over a Medical Marijuana Business shall include but shall not be limited to a natural person who:

    a. Bears the risk of loss and opportunity for profit; Bears the risk of loss and opportunity for profit;

    b. Has final decision making authority over any material aspect of the operation of the Medical Marijuana Business;

    c. Manages the overall operations of a Medical Marijuana Business or its Licensed Premises, or who manages a material portion of the Medical Marijuana Business or its Licensed Premises*;*

    d. Guarantees the Medical Marijuana Business' debts or production levels;

    e. Is a beneficiary of the Medical Marijuana Business' insurance policies;

    f. Receives the majority of the Medical Marijuana Business' profits as compared to other recipients of the Medical Marijuana Business' profits; or

    g. Acknowledges liability for the Medical Marijuana Business' federal, state or local taxes.

C. Affiliated Interests. A Medical Marijuana Business shall disclose all Affiliated Interests in connection with each application for licensure, renewal or reinstatement of the Medical Marijuana Business. The Division may conduct such background investigation as it deems appropriate regarding Affiliated Interests. An Affiliated Interest shall include any Person who does not hold a Financial Interest in the Medical Marijuana Business and who has any of the following relationships with the Medical Marijuana Business:

1. The following Indirect Beneficial Interest Owners:

    a. A Commercially Reasonable Royalty Interest Holder who receives 30 percent or less of the gross revenue or gross profit from sales of the product or line of products subject to the royalty;

    b. A Profit Sharing Plan Employee; and

    c. A Qualified Institutional Investor.

    d.

2. Any other Person who holds any other disclosable interest in the Medical Marijuana Business other than a Financial Interest. Such disclosable interests shall include but shall not be limited to a lease agreement, a secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, sale, transportation, or testing of Medical Marijuana or Medical Marijuana Products.If the Division determines any Person disclosed as an Affiliated Interest should have been pre-approved as a Financial Interest, approval and further background investigation may be required. Additionally, the failure to seek pre-approval of a Financial Interest holder may form the basis for license denial or administrative action against the Medical Marijuana Business.

D. Secured Interest In Marijuana Prohibited. No Person shall at any time hold a secured interest in Medical Marijuana or Medical Marijuana Products.

Basis and Purpose – M 205

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XVIII.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2)(a)(XXI), 12-43.3-310(7), 12-43.3-310(11), and sections 12-43.3-104, 12-43.3-305, 12-43.3-306, 12-43.3-309, 12-43.3-406 and 24-76.5-101 *et. seq.,*C.R.S. The purpose of this rule is to establish protocol for ownership transfers. In addition, the rule clarifies that a business cannot use the transfer of ownership process in order to circumvent the administrative disciplinary process and that an ongoing investigation or disciplinary action may: (1) constitute grounds to deny a transfer of ownership request; (2) constitute grounds to delay a transfer of ownership request, or (3) mandate that the new business owner is responsible for any imposed sanction.

M 205 – Transfer of Ownership and Changes in Business Structure: Medical Marijuana Businesses

A. General Requirements

1. All applications for transfers of Direct Beneficial Interest Owners or changes in corporate structure by licensed Medical Marijuana Businesses authorized pursuant to section 12-43.3-401, C.R.S., shall be made upon current forms prescribed by the Division. Each application shall identify the relevant local licensing authority.

2. All applications for transfers of ownerships and changes in licensed entities by Medical Marijuana Businesses must include application fees, be complete in every material detail, and be filled out truthfully.

3. All applications for transfers of ownership and changes in licensed entities by Medical Marijuana Businesses must be submitted to the State Licensing Authority or its designee and relevant local licensing authority 30 days prior to any requested transfer or change.

4. Each Applicant for a transfer of ownership shall provide suitable evidence as required by the Division , in accordance with these rules and the Medical Code, of each natural person's proof of lawful presence, citizenship, residence, good character and reputation and verification that funds used to invest in or finance the Medical Marijuana Business were lawfully earned or obtained. Each Applicant shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, Department of Revenue tax payment information, the deed, lease, contract, or other document governing the terms and conditions of occupancy of the Licensed Premises. Nothing in this section is intended to limit the Division's

ability to request additional information it deems necessary to determining an Applicant's suitability for licensure.

5. Failure to provide such additional information by the requested deadline may result in denial of the application.

6. The Applicant shall provide the original and one copy of an application for transfer of ownership to the Division. The Division will retain the original application and send the copy to the relevant local licensing authority. *See* Rule M 1401 - Instructions for Local Licensing Authorities and Law Enforcement Officers.

7. The Division will not approve a transfer of ownership application without first receiving written notification that the Applicant disclosed the transfer of ownership to the relevant local licensing authority. If a local licensing authority elects not to approve or deny a transfer of ownership application, the local licensing authority must provide written notification acknowledging receipt of the application and the State Licensing Authority shall revoke the state-issued license.

8. The Applicant(s), or proposed transferee(s), for any license shall not operate the Medical Marijuana Business identified in the transfer of ownership application until the transfer of ownership request is approved in writing by the Division. A violation of this requirement shall constitute grounds to deny the transfer of ownership request, may be a violation affecting public safety, and may result in disciplinary action against the Applicant's existing license(s), if applicable.

9. All current Direct Beneficial Interest Owner(s), or proposed transferor(s), of the license(s) at issue retain full responsibility for the Medical Marijuana Business identified in the transfer of ownership application until the transfer of ownership request is approved in writing by the Division. A violation of this requirement shall constitute grounds to deny the transfer of ownership request, may be a violation affecting public safety, and may result in disciplinary action against the license(s) of the current Direct Beneficial Interest Owner(s) and/or the Medical Marijuana Business.

10. If a Medical Marijuana Business or any of its Direct Beneficial Interest Owners applies to transfer ownership and is involved in an administrative investigation or administrative disciplinary action, the following may apply:

    a. The transfer of ownership may be delayed or denied until the administrative action is resolved; or

    b. If the transfer of ownership request is approved in writing by the Division, the transferee may be responsible for the actions of the Medical Marijuana Business and its prior Direct Beneficial interest Owners, and subject to discipline based upon the same.

11. Licensee Initiates Change of Ownership for Permitted Economic Interests. All individuals holding a Permitted Economic Interest who seek to convert to become a Direct Beneficial Interest Owner are subject to this Rule M 205. The Medical Marijuana Business must initiate the change of ownership process for an individual holding a Permitted Economic Interest who seeks to convert its interest to become a Direct Beneficial Interest Owner. Permitted Economic Interest

holders who are not qualified to become a Direct Beneficial Interest Owner shall not be allowed to convert.

12. Medical Marijuana Transporters Not Eligible. Medical Marijuana Transporters are not eligible to apply for change of ownership.

B. As It Relates to Corporations and Limited Liability Companies

1. If the Applicant is a corporation or limited liability company, it shall submit with the application the names, mailing addresses, and background forms of all of its officers, directors, and Direct and Indirect Beneficial Interest Owners; a copy of its articles of incorporation or articles of organization; and evidence of its authorization to do business within this State. In addition, each Applicant shall submit the names, mailing addresses, and where applicable, certifications of residency or citizenship for all Persons owning any of the outstanding or issued capital stock, or holding a membership interest. No publicly traded company may be identified as the proposed recipient of any ownership interest in a Medical Marijuana Business.

2. Any proposed transfer of capital stock, regardless of the number of shares of capital stock transferred, shall be reported and approved by the State Licensing Authority or its designee and the local licensing authority at least 30 days prior to such transfer or change.

C. As It Relates to Partnerships. If the Applicant is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, mailing addresses, and background forms and, where applicable, certification of residency or citizenship for all of its partners and a copy of its partnership agreement.

D. As It Relates to Entity Conversions. Any Licensee that qualifies for an entity conversion pursuant to sections 7-90-201, C.R.S., *et. seq*., shall not be required to file a transfer of ownership application pursuant to section 12-43.3-309, C.R.S., upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least 30 days prior to such conversion. Such evidence shall include, but not be limited to, any conversion documents or agreements for conversion at least ten days prior to the date of recognition of conversion by the Colorado Secretary of State. The Licensee shall submit to the Division the names and mailing addresses of any officers, directors, general or managing partners, and all Direct and Indirect Beneficial Interest Owners.

E. Approval Required. It may be considered a license violation affecting public safety if a Licensee engages in any transfer of ownership without prior approval from the Division and the relevant local licensing authority.

F. Applications for Reinstatements Deemed New Applications. The Division will not accept an application for transfer of ownership if the license to be transferred is expired for more than 90 days, is voluntarily surrendered, or is revoked. *See* Rule M 201 – Application Process.

Basis and Purpose – M 206

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-305, 12-43.3-310(7), and 12-43.3-310(13), and section 12-43.3-305, C.R.S. The purpose of this rule is to clarify the application process for changing location of a Licensed Premises.

M 206 – Changing Location of the Licensed Premises: Medical Marijuana Businesses

A. Application Required to Change Location of Licensed Premises

1. A Direct Beneficial Interest Owner or other authorized representative of a Medical Marijuana Business must make application to the Division for permission to change location of its Licensed Premises.

2. Such application shall:

a. Be made upon current forms prescribed by the Division;

b. Be complete in every material detail and include remittance of all applicable fees;

c. Be submitted at least 30 days prior to the proposed change;

d. Explain the reason for requesting such change;

e. Be supported by evidence that the application complies with any local licensing authority requirements; and

f. Contain a report of the relevant local licensing authority(-ies) in which the Medical Marijuana Business is to be situated, which report shall demonstrate the approval of the local licensing authority(-ies) with respect to the new location.

B. Permit Required Before Changing Location

1. No change of location shall be permitted until after the Division considers the application, and such additional information as it may require, and issues to the Applicant a permit for such change.

2. The permit shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate a Medical Marijuana Business at the former location. At no time may a Medical Marijuana Business operate or exercise any of the privileges granted pursuant to the license in both locations. For good cause shown, the 120 day deadline may be extended for an additional 90 days. If the Licensee does not change the location of its business within the time period granted by the Division, including any extension, the Licensee shall submit a new application, pay the requisite fees and receive a new permit prior to completing any change of the location of the business.

3. The permit shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.

4. No change of location will be allowed except to another place within the same city, town, county or city and county in which the license as originally issued was to be exercised.

C. General Requirements

1. An application for change of location to a different local licensing authority shall follow the same procedures as an application for a new Medical Marijuana Business license. See Rule M 201 – Application Process.

2. An Applicant for change of location shall file a change of location application with the Division and pay the requisite change of location fee. See Rule M 207 - Schedule of Application Fees: Medical Marijuana Businesses.

Basis and Purpose – M 211

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX) and 12-43.4-202(4)(b)(I)(A), and sections 12-43.4-104 and 12-43.3-501, C.R.S. The purpose of this rule is to clarify that, with the exception of Medical Marijuana Testing Facilities, Medical Marijuana Business Operators and Medical Marijuana Business Transporters, existing Medical Marijuana Businesses may apply to convert a Medical Marijuana Business License to a Retail Marijuana Establishment License or may apply to obtain one additional license to operate a Retail Marijuana Establishment. It is important to note that the State Licensing Authority considers each license issued as separate and distinct. Each license, whether it is in the same location or not, is fully responsible to maintain compliance with all statutes and rules promulgated regardless of whether or not they are located in a shared address.

A Medical Marijuana Business may only obtain one Retail Marijuana Establishment License, whether it converts the Medical Business License or obtains a Retail Marijuana Establishment License, for each Medical Marijuana Business License it holds. In order to ensure all Retail Marijuana and Retail Marijuana Product are tracked in the Inventory Tracking System and as a condition of licensure, a Medical Marijuana Business must declare in the Inventory Tracking System all Medical Marijuana and Medical Marijuana Infused-Product that are converted for sale as Retail Marijuana or Retail Marijuana Product prior to initiating or allowing any sales. This declaration may be made only once. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility. The marijuana subject to the one-time transfer is subject to the excise tax upon the first transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Establishment.

The State Licensing Authority received several comments from stakeholders who requested lower fees for Medical Marijuana Businesses that were either converting a Medical Marijuana Business license to a Retail Marijuana Establishment license or obtaining an additional Retail Marijuana Establishment license while retaining the existing Medical Marijuana Business license. The adopted permanent regulations reflect changes to address this concern. Under the rules as adopted, Medical Marijuana Businesses that apply to convert to a Retail Marijuana Establishment license will be required to pay an application fee, but no license fees will be charged until such time as the renewal fees would have been due under the Medical Marijuana Business license term. The Retail Marijuana Establishment license, if approved, would assume the balance of the license term from the Medical Marijuana Business license and have the same expiration date.

M 211 – Conversion - Medical Marijuana Business to Retail Marijuana Establishment

A. Retail Marijuana Establishment Expiration Date

1. A Medical Marijuana Business converting its license to a Retail Marijuana Establishment license shall not be required to pay a license fee at the time of application for conversion.

2. If a Medical Marijuana Business licensee is scheduled to renew its license during the processing of its conversion to a Retail Marijuana Establishment license, the Medical Marijuana Business must complete all renewal applications and pay the requisite renewal licensing fees.

3. A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Business license will assume the balance of licensing term previously held by the surrendered Medical Marijuana Business license.

B. Medical Marijuana Licensees Applying for Retail Marijuana Establishments. Except for a Medical Marijuana Testing Facility, a Medical Marijuana Business Operator or a Medical Marijuana Business Transporter, a Medical Marijuana Business Licensee in good standing or who had a pending application as of December 10, 2012 that has not yet been denied, and who has paid all applicable fees, may apply for a Retail Marijuana Establishment license in accordance with the Retail Code and these rules on or after October 1, 2013. A Medical Marijuana Business meeting these conditions may apply to convert a Medical Marijuana Business license to a Retail Marijuana Establishment license or may apply for a single Retail Marijuana Establishment of the requisite class of license in the Medical Marijuana Code for each Medical Marijuana Business License not converted.

C. Retail Marijuana Establishment Licenses Conditioned

1. It shall be unlawful for a Retail Marijuana Establishment to operate without being issued a Retail Marijuana Establishment license by the State Licensing Authority and receiving all relevant local jurisdiction approvals. Each Retail Marijuana Establishment license issued shall be conditioned on the Licensee's receipt of all required local jurisdiction approvals and licensing, if required.

2. Each Retail Marijuana Establishment license issued shall be conditioned on the Medical Marijuana Business Licensee's declaration of the amount of Medical Marijuana or Medical Marijuana-Infused Product it intends to transfer from the requisite Medical Marijuana Business for sale as Retail Marijuana or Retail Marijuana Product. A Retail Marijuana Establishment shall not exercise any of the rights or privileges of a Retail Marijuana Establishment Licensee until such time as all such Medical Marijuana and Medical Marijuana-Infused Product are fully transferred and declared in the Inventory Tracking System. *See also*, Rule R 309 – Inventory Tracking System. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility.

D. One-Time Transfer.

1. This rule M 211(D)(1) is repealed effective July 1, 2016. Prior to July 1, 2016, once a Retail Marijuana Establishment has declared Medical Marijuana and/or Medical Marijuana-Infused Product as Retail Marijuana or Retail Marijuana Product in the Inventory Tracking System and begun exercising the rights and privileges of the license, no additional Medical Marijuana or Medical Marijuana-Infused Product can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

2. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and a Retail Marijuana Establishment is the transfer of

Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility. All other transfers are prohibited, including but not limited to transfers from a Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer to any Retail Marijuana Establishment. Once a Retail Marijuana Establishment has declared Medical Marijuana and Medical Marijuana Concentrate as Retail Marijuana or Retail Marijuana Concentrate in the Inventory Tracking System and begun exercising the rights and privileges of the license, no additional Medical Marijuana or Medical Marijuana Concentrate can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

M 230 – Repealed Effective January 1, 2017.

Basis and Purpose – M 231

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-310(4), 12-43.3-310(7), and 24-18-105(3), and sections 12-43.3-104, 12-43.3-306, 12-43.3-307, 12-43.307.5, 12-43.3-401 and 24-76.5-101 *et. seq,* C.R.S. The purpose of this rule is clarify the qualifications for licensure, including, but not limited to, the requirement for a fingerprint-based criminal history record check for all Direct Beneficial Interest Owners, contractors, employees, and other support staff of licensed entities.

M 231 – Qualifications for Licensure and Residency

A. Any Applicant may be required to establish his or her identity and age by any document required for a determination of Colorado residency, United States citizenship or lawful presence.

B. Maintaining Ongoing Licensing Qualification: Duty to Report Offenses. An Applicant or Licensee shall notify the Division in writing of any felony criminal charge and felony conviction against such person within ten days of such person's arrest, felony summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the Division may be grounds for disciplinary action. Applicants and Licensees shall notify the Division within ten days of any other event that renders the Applicant or Licensee no longer qualified under these rules. Licensees shall cooperate in any investigation conducted by the Division. This duty to report includes, but is not limited to, deferred sentences or judgments that are not sealed. If the Division lawfully finds a disqualifying event and an Applicant asserts that the record was sealed, the Division may require the Applicant to provide proof from a court evidencing the sealing of the case.

C. Application Forms Accessible to Law Enforcement and Licensing Authorities. All application forms supplied by the Division and filed by an Applicant for licensure shall be accessible by the State Licensing Authority, local licensing authorities, and any state or local law enforcement agent.

D. Associated Key Licenses. Each Direct Beneficial Interest Owner who is a natural person, including but not limited to each officer, director, member or partner of a Closely Held Business Entity, must apply for and hold at all times a valid Associated Key License. Except that these criteria shall not apply to Qualified Limited Passive Investors, who are not required to hold Associated Key Licenses. Each such Direct Beneficial Interest Owner

must establish that he or she meets the following criteria before receiving an Associated Key License:

1. The Applicant has paid the annual application and licensing fees;

2. The Applicant's criminal history indicates that he or she is of Good Moral Character;

3. The Applicant is not employing, or financed in whole or in part by any other Person whose criminal history indicates that he or she is not of Good Moral Character;

4. The Applicant is at least 21 years of age;

5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Medical Marijuana Business or Retail Marijuana Establishment, if applicable;

6. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The Applicant meets qualifications for licensure that directly and demonstrably relate to the operation of a Medical Marijuana Business.

8. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer; except that the State Licensing Authority may grant a license to a person if the Applicant has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony of the Applicant were convicted of the offense on the date he or she applied for licensure'

9. The Applicant does not employ another person who does not have a valid Occupational License issued pursuant to either the Medical Code or Retail Code;

10. The Applicant is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;

11. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for individuals, Retail Marijuana Establishments and/or Medical Marijuana Businesses licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application;

12. The premises that the Applicant proposes to be licensed is not currently licensed as a retail food establishment or wholesale food registrant;

13. The Applicant either:

    a. Has been a resident of Colorado for at least one year prior to the date of the application, or

b. Has been a United States citizen since a date prior to the date of the application and has received a Finding of Suitability from the Division prior to filing the application. *See* Rule M 231.1 – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners; Rule M 232 – Factors Considered When Determining Residency and Citizenship: Individuals.

14. For Associated Key Licensees who are owners of a Closely Held Business Entity, the Applicant is a United States citizen.

E. Occupational Licenses. An Occupational License Applicant who is not applying for an Associated Key License must establish that he or she meets the following criteria before receiving an Occupational License:

1. The Applicant has paid the annual application and licensing fees;

2. The Applicant's criminal history indicates that he or she is of Good Moral Character;

3. The Applicant is at least 21 years of age;

4. An Applicant is currently a resident of Colorado. See Rule M 232 – Factors Considered When Determining Residency and Citizenship: Individuals;

5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Medical Marijuana Business or Retail Marijuana Establishment;

6. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The Applicant meets qualifications for licensure that directly and demonstrably relate to the operation of a Medical Marijuana Business.

8. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer; except that the State Licensing Authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony of the person were convicted of the offense on the date he or she applied for licensure.

9. The Applicant is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority; and

10. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for occupational licensees, Medical Marijuana Businesses and/or Retail Marijuana Establishments licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant’s application.

F. Current Medical Marijuana Occupational Licensees.

1. An individual who holds a current, valid Occupational License issued pursuant to the Medical Code may also work in a Retail Marijuana Establishment; no separate Occupational License is required.

2. An individual who holds a current, valid Occupational License issued pursuant to the Retail Code after July 1, 2015 may also work in a Medical Marijuana Business; no separate Occupational License is required.

G. Associated Key License Privileges. A person who holds an Associated Key License must associate that license separately with each Medical Marijuana Business or Retail Marijuana Establishment with which the person is associated by submitting a form approved by the Division. A person who holds an Associated Key License may exercise the privileges of a licensed employee in any licensed Medical Marijuana Business or Retail Marijuana Establishment in which they are not an owner so long as the person does not exercise privileges of ownership.

H. Qualified Limited Passive Investor. An Applicant who wishes to be a Qualified Limited Passive Investor and hold an interest in a Medical Marijuana Business as a Direct Beneficial Interest Owner must establish that he or she meets the following criteria before the ownership interest will be approved:

1. He or she is a natural person;

2. The Applicant qualifies under Rule R 231.2(B);

3. He or she has been a United States citizen since a date prior to the date of the application, and

4. He or she has signed an affirmation of passive investment.

Basis and Purpose – M 231.1

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-310(4), 12-43.3-310(7), and 24-18-105(3), and sections 12-43.3-104, 12-43.3-307, 12-43.3-307.5, 12-43.3-313, 12-43.3-401, 24-76.5-101 *et. seq,* and, C.R.S. The purpose of this rule is to clarify the qualifications for Direct Beneficial Interest Owners.

M 231.1 – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners

A. Finding of Suitability – Non-Resident Direct Beneficial Interest Owners. A natural person, owner, shareholder, director, officer, member or partner of an entity that intends to apply to become a Direct Beneficial Interest Owner who has not been a resident of Colorado for at least one year prior to the application shall first submit a request to the State Licensing Authority for a finding of suitability to become a Direct Beneficial Interest Owner as follows:

1. A request for a finding of suitability for a non-resident natural person shall be submitted on the forms prescribed by the State Licensing Authority.

2. A natural person or all owners, shareholders, directors, officers, members or partners of an entity who have not been a resident of Colorado for at least one

year shall obtain a finding of suitability prior to submitting an application to become a Direct Beneficial Interest Owner to the State Licensing Authority. A non-Colorado resident's failure to obtain a finding of suitability prior to submitting an application to become a Direct Beneficial Interest Owner to the State Licensing Authority shall be grounds for denial of the application.

B. Number of Permitted Direct Beneficial Interest Owners.

1. A Medical Marijuana Business may be comprised of an unlimited number of Direct Beneficial Interest Owners that have been residents of Colorado for at least one year prior to the date of the application.

2. On and after January 1, 2017, a Medical Marijuana Business that is comprised of one or more Direct Beneficial Interest Owners who have not been Colorado residents for at least one year is limited to no more than fifteen Direct Beneficial Interest Owners, each of whom is a natural person. Further, a Medical Marijuana Business that is comprised of one or more Direct Beneficial Interest Owners who have not been Colorado residents for at least one year shall have at least one officer who is a Colorado resident. All officers with day-to-day operational control over a Medical Marijuana Business must be Colorado residents for at least one year, must maintain their Colorado residency during the period while they have day-to-day operational control over the Medical Marijuana Business and shall be licensed as required by the Medical Code. Rule 231 – Qualifications for Licensure and Residency: Individuals.

C. Notification of Change of Residency. A Medical Marijuana Establishment with more than fifteen Direct Beneficial Interest Owners shall provide thirty days prior notice to the Division of any Direct Beneficial Interest Owners' intent to change their residency to a residency outside Colorado. A Medical Marijuana Business with no more than fifteen Direct Beneficial Interest Owners shall notify the Division of the change of residency of any Direct Beneficial Interest Owner at the time of its license renewal. Failure to provide timely notice pursuant to this rule may lead to administrative action against the Medical Marijuana Business and its Direct Beneficial Interest Owners.

D. A Direct Beneficial Interest Owner shall not be a publicly traded company.

Basis and Purpose – M 231.2

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-202(2)(a)(XXI) and 24-18-105(3), and sections 12-43.3-104,12-43.3-307.5 and 24-76.5-101 *et. seq.*, C.R.S. The purpose of this rule is to clarify the qualifications for an Indirect Beneficial Interest Owner other than a Permitted Economic Interest.

M 231.2 – Qualifications for Indirect Beneficial Interest Owners and Qualified Limited Passive Investors

A. General Requirements

1. An Applicant applying to become a Commercially Reasonable Royalty Interest holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product or line of products or the holder of a Permitted Economic Interest must be pre-approved by the Division.

2. An Applicant applying to become an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor shall submit information to the Division in a

full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made misstatements, omissions, misrepresentations, or untruths in the application. This type of conduct may be considered as the basis of additional administrative action against the Applicant and the Medical Marijuana Business.

3. The Division may deny the application when the Applicant fails to provide any requested information by the Division's deadline.

4. The Division's determination that an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified constitutes a revocable privilege held by the Medical Marijuana Business. The burden of proving the Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified rests at all times with the Medical Marijuana Business Applicant. Indirect Beneficial Interest Owners and Qualified Limited Passive Investors are not separately licensed by the Division. Any administrative action regarding an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor may be taken directly against the Medical Marijuana Business.

5. Permitted Economic Interest Fingerprints Required. Any individual applying to hold his or her first Permitted Economic Interest shall be fingerprinted for a criminal history record check. In the Division's discretion, an individual may be required to be fingerprinted again for additional criminal history record checks.

6. No publicly traded company can be an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor.

B. Qualification. The Division may consider the following non-exhaustive list of factors to determine whether an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified:

1. The Applicant's criminal history indicates that he or she is of Good Moral Character;

2. The Applicant is at least 21 years of age;

3. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Medical Marijuana Business or Retail Marijuana Establishment, if applicable;

4. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

5. The Applicant is not currently subject to or has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer, except, in the Division's discretion, a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the Person were convicted of the offense on the date he or she applied may not disqualify an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor;

6. The Applicant is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;

7. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for individuals, Medical Marijuana Businesses and/or Retail Marijuana Establishments licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.

8. The Applicant has provided all documentation requested by the Division to establish qualification to be an Indirect Beneficial Interest Owner.

C. Maintaining Qualification:

1. An Indirect Beneficial Interest Owner or Qualified Limited Passive Investor shall notify the Division in writing of any felony criminal charge and felony conviction against such person within ten days of such person's arrest or felony summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the Division may be grounds for disciplinary action. This duty to report includes, but is not limited to, deferred sentences, prosecutions, or judgments that are not sealed. If the Division lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Division may require the individual to provide proof from a court evidencing the sealing of the case

2. An Indirect Beneficial Interest Owner, Qualified Limited Passive Investor and Medical Marijuana Business shall cooperate in any investigation into whether an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor continues to be qualified that may be conducted by the Division.

D. Divestiture of Indirect Beneficial Interest Owner or Qualified Limited Passive Investor. If the Division determines an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is not permitted to hold their interest, the Medical Marijuana Business shall have 60 days from such determination to divest the Indirect Beneficial Interest Owner or Qualified Limited Passive Investor. The Division may extend the 60-day deadline for good cause shown. Failure to timely divest any Indirect Beneficial Interest Owner or Qualified Limited Passive Investor the Division determines is not qualified, or is no longer qualified, may constitute grounds for denial of license or administrative action against the Medical Marijuana Business and/or its Associated Key Licensee(s).

M 231.5 – Repealed Effective January 1, 2017.

Basis and Purpose – M 232

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(I), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-202(2)(a)(XXI), 12-43.3-307.5(2), 12-43.3-310(6), C.R.S. The purpose of this rule is to interpret residency requirements set forth in the Medical Code.

M 232 – Factors Considered When Determining Residency and Citizenship: Individuals

This rule applies to individual Applicants who are trying to obtain Medical Marijuana Business licenses. When the State Licensing Authority determines whether an Applicant is a resident, the following factors will be considered:

A. Primary Home Defined. The location of an Applicant's principal or primary home or place of abode (“primary home”) may establish Colorado residency. An Applicant's primary home is that home or place in which a person's habitation is fixed and to which the person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A primary home is a permanent building or part of a building and may include, by way of example, a house, condominium, apartment, room in a house, or manufactured housing. No rental property, vacant lot, vacant house or cabin, or other premises used solely for business purposes shall be considered a primary home.

B. Reliable Indicators That an Applicant's Primary Home is in Colorado. The State Licensing Authority considers the following types of evidence to be generally reliable indicators that a person's primary home is in Colorado.

1. Evidence of business pursuits, place of employment, income sources, residence for income or other tax purposes, age, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, existence of any other residences outside of Colorado and the amount of time spent at each such residence, and any motor vehicle or vessel registration;

2. Duly authenticated copies of the following documents may be taken into account: A current driver's license with address, recent property tax receipts, copies of recent income tax returns where a Colorado mailing address is listed as the primary address, current voter registration cards, current motor vehicle or vessel registrations, and other public records evidencing place of abode or employment; and

3. Other types of reliable evidence.

C. Totality of the Evidence. The State Licensing Authority will review the totality of the evidence, and any single piece of evidence regarding the location of a person's primary home is not necessarily determinative.

D. Other Considerations for Residency. The State Licensing Authority may consider the following circumstances

1. Members of the armed services of the United States or any nation allied with the United States who are on active duty in this state under permanent orders and their spouses;

2. Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in Colorado and their spouses; and

3. Full-time students who are enrolled in any accredited trade school, college, or university in Colorado. The temporary absence of such student from Colorado, while the student is still enrolled at any such trade school, college, or university, shall not be deemed to terminate their residency. A student shall be deemed “full-time” if considered full-time pursuant to the rules or policy of the educational institution he or she is attending.

E. Entering Armed Forces Does Not Terminate Residency. An individual who is a Colorado resident pursuant to this rule does not terminate Colorado residency upon entering the armed services of the United States. A member of the armed services on active duty who resided in Colorado at the time the person entered military service and the person's

spouse are presumed to retain their status as residents of Colorado throughout the member's active duty in the service, regardless of where stationed or for how long.

F. Determination of United States Citizenship. Whenever the Medical Code or the rules promulgated pursuant thereto require a Direct Beneficial Interest Owner to be a United States citizen, the Direct Beneficial Interest Owner must provide evidence of United States citizenship as required by the Division in accordance with applicable federal and state statutes and regulations.

Basis and Purpose – M 233

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(VIII), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-310(7), and section 12-43.3-401(1)(d), C.R.S. The purpose of this rule is to clarify when an individual must be licensed or registered with the Division before commencing any work activity at a Medical Marijuana Business. The rule also sets forth the process for obtaining a license or registration and explains what information may be required before obtaining such license or registration.

M 233 – Medical Code or Retail Code Occupational Licenses Required

A. Medical Code or Retail Code Occupational Licenses and Identification Badges

1. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports or delivers Medical Marijuana or Medical Marijuana-Infused Product as permitted by privileges granted under a Medical Marijuana Business license must have a valid Occupational License.

2. Any person who has the authority to access or input data into the Inventory Tracking System or a Medical Marijuana Business point of sale system must have a valid Occupational License.

3. Any person within a Restricted Access Area or Limited Access Area that does not have a valid Occupational License shall be considered a visitor and must be escorted at all times by a person who holds a valid Associated Key License or other Occupational License. Failure by a Medical Marijuana Business to continuously escort a person who does not have a valid Occupational License within a Limited Access Area may be considered a license violation affecting the public safety. See Rule M 1307 – Penalties. *See also* Rule M 301 – Limited Access Areas. Nothing in this provision alters or eliminates a Medical Marijuana Business's obligation to comply with the Occupational License requirements of paragraph (A) of this rule M 233. Trade craftspeople not normally engaged in the business of cultivating, processing, or selling Medical Marijuana do not need to be accompanied at all times, and instead only reasonably monitored.

B. Occupational License Required to Commence or Continue Employment. Any person required to be licensed pursuant to these rules shall obtain all required approvals and obtain a Division-issued identification badge before commencing activities permitted by his or her Medical Code or Retail Code Occupational License. *See* Rules M 231 – Qualifications for Licensure and Residency; M 204 –Ownership Interests of a License: Medical Marijuana Businesses, and M 301 – Limited Access Areas.

C. Identification Badges Are Property of State Licensing Authority. All identification badges shall remain the property of the State Licensing Authority, and all identification badges shall be returned to the Division upon demand of the State Licensing Authority or the Division.

Basis and Purpose – M 251

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), and sections 12-43.2-306, 24-4-104 and 24-4-105, C.R.S. The purpose of this rule is to establish what factors the State Licensing Authority will consider when denying an application for licensure.

M 251 – Application Denial and Voluntary Withdrawal: All Licensees

A. Applicant Bears Burden of Proving It Meets Licensing Requirements

1. At all times during the application process, an Applicant must be capable of establishing that it is qualified to hold a license.

2. An Applicant that does not cooperate with the Division during the application phase may be denied as a result. For example, if the Division requests additional evidence of qualification and the Applicant does not furnish such evidence by the date requested, the Applicant's application may be denied.

B. Applicants Must Provide Accurate Information

1. An Applicant must provide accurate information to the Division during the entire Application process.

2. If an Applicant provides inaccurate information to the Division, the Applicant's application may be denied.

C. Grounds for Denial

1. The State Licensing Authority will deny an application from an Applicant that forms a business, including but not limited to a sole proprietorship, corporation, or other business enterprise, with the purpose or intent, in whole or in part, of transporting, cultivating, processing, transferring, or distributing marijuana or marijuana products without receiving prior licenses from all relevant licensing authorities.

2. The State Licensing Authority will deny an application for Good Cause.

3. The State Licensing Authority will deny an application from an Applicant that is statutorily disqualified from holding a license.

D. Voluntary Withdrawal of Application

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application in lieu of a denial proceeding.

2. Applicants must first submit a notice to the Division requesting the voluntary withdrawal of the application. Applicants will submit the notice with the understanding that they were not obligated to request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. An Applicant May Appeal a Denial

1. An Applicant may appeal a denial pursuant to the Administrative Procedure Act.

2. *See also* Rules M 1304 – Administrative Hearings, M 1305 – Administrative Subpoenas, and M 1306 – Administrative Hearing Appeals.

Basis and Purpose – M 252

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX) and 12-43.3-310(6), C.R.S. The purpose of this rule is to clarify the length of licenses for businesses and individuals.

M 252 – Length of License: All Licensees Except Retail Marijuana Transporters and Occupational Licenses

A. Medical Marijuana Business License. All licenses issued pursuant to the Medical Code and these rules are valid for one year, except that a Medical Marijuana Transporter license and an Occupational License are valid for two years.

B. License May Be Valid for Less Than Full Term. A License may be valid for less than the applicable license term if surrendered, or if revoked, suspended, or otherwise disciplined.

M 300 Series – The Licensed Premises

Basis and Purpose – M 301

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(X), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XX), and section 12-43.3-105, C.R.S. The purpose of this rule is to establish regulations governing Limited Access Areas for inside a Licensed Premises. In addition, this rule clarifies that businesses and individuals cannot use the visitor system as a means to employ an individual who does not possess a valid and current Occupational License.

M 301 – Limited Access Areas

A. Proper Display of License Badge. All persons in a Limited Access Area as provided for in section 12-43.3-105, C.R.S., shall be required to hold and properly display a current license badge issued by the Division at all times. Proper display of the license badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

B. Visitors in Limited Access Areas

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by the Medical Marijuana Business's licensed personnel at all times. No more than five visitors may be escorted by a single employee. Except that trade craftspeople not normally engaged in the business of cultivating, processing or selling Medical Marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

2.1 A Medical Marijuana Business and a Licensee employed by the Medical Medical Marijuana Business shall report any discovered plan of or other action by any visitor to commit theft, burglary, underage sales, diversion of Medical Marijuana or Medical Marijuana Infused-Product, or other crime related to the operation of the subject Medical Marijuana Business. Such discovered plan or other action shall be reported to the Division in accordance with Rule M 904 – Medical Marijuana Business Reporting Requirements.

3. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division or relevant local licensing authority.

4. All visitors admitted into a Limited Access Area must provide acceptable proof of age and must be at least 21 years of age. *See* Rule M 405 – Acceptable Forms of Identification for Medical Sales.

5. The Licensee shall check an acceptable form of identification for all visitors to verify that the name on the identification matches the name in the visitor log. *See* Rule M 405 – Acceptable Forms of Identification for Medical Sales

6. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

7. Use of a visitor badge to circumvent the Occupational License requirements of rule M 233 – Medical Code or Retail Code Occupational Licenses Required is prohibited and may constitute a license violation affecting public safety.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors".

D. Diagram for Licensing Licensed Premises. All Limited Access Areas shall be clearly identified to the Division or relevant local licensing authority and described by the filing of a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all Propagation, cultivation, manufacturing, and Restricted Access Areas. *See* Rule M 901 – Business Records Required.

E. Modification of a Limited Access Area. A Licensee's proposed modification of designated Limited Access Areas shall be approved by Division or local licensing authorities. *See* Rule M 303 – Changing, Altering, or Modifying Licensed Premises.

F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this rule, nothing shall prohibit investigators and employees of the Division, authorities from local licensing authority or any state or local law enforcement agency, for a purpose authorized by the Medical Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

Basis and Purpose – M 302

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), and 12-43.3-308(1)(b), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee can establish lawful possession of the Licensed Premises.

M 302 – Possession of Licensed Premises

A. Evidence of Lawful Possession. Persons licensed pursuant to sections 12-43.3-402, 12-43.3-403, 12-43.3-404, 12-43.3-405, or 12-43.3-406, C.R.S., or those making application for such licenses, must demonstrate proof of lawful possession of the premises to be licensed or Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to the State Licensing Authority and local licensing authorities.

B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and the local licensing authority. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an Application to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. *See* Rule M 303 - Changing, Altering, or Modifying Licensed Premises.

C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of a Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and local licensing authority.

Basis and Purpose – M 304

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I)(A)-(F), 12-43.4-104(1)(a)(V), 12-43.4-202(2)(b), 12-43.4-401(2), and 12-43.4-404(2), C.R.S. and sections 12-43.3-406, 12-43.4-405 and 12-43.4-406, C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Business may share its existing Licensed Premises with a Licensed Retail Marijuana Establishment, and to ensure the proper separation of a Medical Marijuana Business operation from Retail Marijuana Establishment operation.

M 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

A. Licensed Premises – General Requirements

1. A Medical Marijuana Center that prohibits patients under the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and

operate a dual retail business operation on the same Licensed Premises if the relevant local licensing authority permits a dual operation at the same location and the two are commonly owned.

2. A Medical Marijuana Center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its Licensed Premises with a Retail Marijuana Establishment. Even when the two are commonly owned, the two shall maintain distinctly separate Licensed Premises; including, but not limited to, separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

3. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share a single Licensed Premises in order to operate a dual cultivation business operation, if the relevant licensing authority permits a dual operation at the same location and the two are commonly owned.

4. A Medical Marijuana-Infused Products Manufacturer Business Licensee and a Retail Marijuana Products Manufacturing Facility may share a single Licensed Premises to operate a dual manufacturing business operation, if the relevant local licensing authority permits a dual operation at the same location and the two are commonly owned.

5. A Medical Marijuana Testing Facility Licensee and a Retail Marijuana Testing Facility Licensee may share a single Licensed Premises to operate a dual testing business operation at the same location if the relevant local licensing authority permits dual operation at the same location and the two are identically owned.

6. A Medical Marijuana Transporter Licensee and a Retail Marijuana Transporter Licensee may share a single Licensed Premises to operate a dual transporting, logistics, and temporary storage business operation at the same location if the relevant local licensing authority permits dual operation at the same location and the two are identically owned.

B. Separation of Co-located Licensed Operations

1. Cultivation Operations. A Person operating an Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation of the facilities, marijuana plants, and marijuana inventory. Record keeping for the business operations and labeling of products must enable the Division and relevant local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana Business from the Retail Marijuana Establishment.

2. Manufacturing Operations. A Person operating a Medical Marijuana-Infused Products Manufacturer Business and Retail Marijuana Products Manufacturing Facility shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory. Record keeping for the business operations and labeling of products must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana-Infused Product from Retail Marijuana Product.

3. Raw Ingredients May Be Shared. Nothing in this rule prohibits a co-located Retail Marijuana Establishment and Medical Marijuana Business from sharing raw

ingredients in bulk, for example flour or sugar, except that Retail Marijuana and Medical Marijuana may not be shared under any circumstances.

4. Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years. Persons operating a Medical Marijuana Center that specifically prohibits the admittance of patients under the age of 21 years and a Retail Marijuana Store may share their Licensed Premises. Such a Medical Marijuana Center Licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the State Licensing Authority, the Medical Marijuana Center and the Retail Marijuana Store may share the same entrances and exits. Also under these circumstances, Medical Marijuana and Retail Marijuana and Medical Marijuana-Infused Product and Retail Marijuana Product must be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the Division and relevant local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Product from Retail Marijuana and Retail Marijuana Product. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Establishments may be considered a license violation affecting public safety.

5. Retail Stores and Medical Marijuana Centers: Patients Under The Age of 21 Years. A co-located Medical Marijuana Center and Retail Marijuana Store shall maintain separate Licensed Premises, including entrances and exits, inventory, point of sale operations, and record keeping if the Medical Marijuana Center serves patients under the age of 21 years or permits admission of patients under the age of 21 years on its premises.

6. Testing Facilities. A co-located Medical Marijuana Testing Facility and Retail Marijuana Testing Facility shall maintain either physical or virtual separation of the facilities and marijuana and products being tested. Record keeping for the business operations and labeling of products must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Product and Retail Marijuana and Retail Marijuana Product.

6.1. Transporters. A co-located Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation of the facilities and Medical Marijuana, Medical Marijuana-Infused Products, Retail Marijuana, and Retail Marijuana Products being transported and stored. Record keeping for the business operations and storage of products must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Product and Retail Marijuana and Retail Marijuana Product.

7. Clear Separation of Inventory. A Person who operates both a Medical Marijuana Business and Retail Marijuana Establishment within one location is required to maintain separate and distinct inventory tracking processes for Medical and Retail Marijuana inventories. The inventories must be clearly tagged or labeled so that the products can be reconciled to a particular Medical Marijuana Business or a Retail Marijuana Establishment.

Basis and Purpose – M 308

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), and C.R.S. The purpose of this rule is to establish hours of operation requirements for Medical Marijuana Businesses. The State Licensing Authority modeled this rule after the Retail Marijuana Establishment Hours of Operation rule, Rule R 308 located in 1 CCR 212-2, and the Colorado Department of Revenue's liquor rules. Based upon written comments and testimony during working groups and public hearings, this rule was amended to remove restrictions on the hours during which initiating the transportation of Medical Marijuana and Medical Marijuana-Infused Product is permitted.

M 308 – Selling and Serving Medical Marijuana and Medical Marijuana-Infused Product: Hours of Operation

A. Hours of Operation. Medical Marijuana Businesses shall not sell or serve Medical Marijuana or Medical Marijuana-Infused Product at any time other than between the hours of 8:00 am and 12:00 am, Mountain Time, Monday through Sunday.

B. Local Jurisdictions May Further Restrict Hours. Nothing in this rule shall prohibit a local jurisdiction from further restricting hours of operation within its jurisdiction.

M 400 Series – Medical Marijuana Centers

Basis and Purpose – M 401

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I)(A-F),12-43.3-310(7), 12-43.3-310(4), and sections 12-43.3-402 and 12-43.3-406, C.R.S. The purpose of this rule is to establish that it is unlawful for a Medical Marijuana Center Licensee to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

M 401 – Medical Marijuana Center: License Privileges

A. Privileges Granted. A Medical Marijuana Center shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule M 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Medical Marijuana Center may share a location with a commonly-owned Retail Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Authorized Sources of Medical Marijuana. A Medical Marijuana Center may only sell Medical Marijuana that it has purchased from an Optional Premises Cultivation Operation or that the center has cultivated itself, after first obtaining an Optional Premises Cultivation Operation License. *See* Rule M 501 – Optional Premises Cultivation Operation: License Privileges.

D. Authorized Sources of Medical Marijuana-Infused Product Inventory. A Medical Marijuana Center may sell Medical Marijuana-Infused Product that it has purchased from a Medical Marijuana-Infused Products Manufacturer, so long as each product are pre-packaged and labeled upon purchase from the manufacturer.

E. Samples Provided for Testing.

1. Repealed.

1.5. A Medical Marijuana Center may provide Samples of its products to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Center shall maintain the testing results as part of its business books and records. See Rule M 901 – Business Records Required.

F. Authorized On-Premises Storage. A Medical Marijuana Center is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

G. Authorized Marijuana Transport. A Medical Marijuana Center is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana and Medical Marijuana-Infused Product so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this rule prevents a Medical Marijuana Center from transporting its own Medical Marijuana and Medical Marijuana-Infused Product.

Basis and Purpose – M 403

The statutory authority for this rule is found at subsections 12-43.3-103(2)(b), 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-310(7), 12-43.3-310(4), 12-43.4-401(4) and sections 12-43.3-402 and 12-43.3-406, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 14(4). The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a licensed Medical Marijuana Center. This rule also restricts the amount of its inventory a Medical Marijuana Center may sell to other Medical Marijuana Businesses to 30 percent.

The quantity limitations on sales provision is intended to inform stakeholders in order to aid in compliance with a patient's lawful medical marijuana limit. Clarifying the quantity limitations on sales provides Medical Marijuana Centers and their employees with necessary information to avoid being complicit in a patient acquiring more medical marijuana than is lawful under the Colorado Constitution pursuant to Article XVIII, Subsection 14(4).

M 403 – Medical Marijuana Sales: General Limitations or Prohibited Acts

A. 30 Percent Rule. Pursuant to section 12-43.3-402(4), C.R.S., a Medical Marijuana Center may purchase not more than thirty percent of its total on-hand medical marijuana inventory from another licensed Medical Marijuana Center in Colorado. A Medical Marijuana Center may sell no more than thirty percent of its total on-hand Medical Marijuana inventory to another Medical Marijuana Center.

Total on-hand inventory as used in section 12-43.3-402(4), C.R.S., shall only include Medical Marijuana grown on the Medical Marijuana Center's dedicated Optional Premises Cultivation Operation that has been processed and the total amount or quantity has been accounted for in the licensed Medical Marijuana Center's inventory during the previous calendar year, or in the case of a newly licensed business, its first 12 months of business. For purposes of this rule, a calendar year means January 1st to December 31st.

B. Medical Marijuana-Infused Products Manufacturers. A Medical Marijuana Center may also contract for the manufacture of Medical Marijuana-Infused Product with Medical Marijuana-Infused Product Licensees utilizing a contract as provided for in Rule M 602 – Medical Marijuana-Infused Products Manufacturer: General or Prohibited Acts (Infused Product Contracts). Medical Marijuana distributed to a Medical Marijuana-Infused

Products Manufacturer by a Medical Marijuana Center pursuant to such a contract for use solely in Medical Marijuana-Infused Product(s) that are returned to the contracting Medical Marijuana Center shall not be included for purposes of determining compliance with subsection A.

C. Consumption Prohibited. Licensees shall not permit the consumption of marijuana or a marijuana product on the Licensed Premises.

D. Quantity Limitations On Sales. A Medical Marijuana Center and its employees are prohibited from selling more than two ounces of Medical Marijuana or its equivalent in Medical Marijuana-Infused Product during a sales transaction to a patient unless that patient has designated the Medical Marijuana Center as its primary center and supplied it with documentation from the patient's physician that allows the patient more than two ounces of Medical Marijuana or its equivalent in Marijuana-Infused Product. A Medical Marijuana Center is prohibited from selling more than two ounces of Medical Marijuana or its equivalent in Marijuana-Infused Product to any patient who has not registered that Medical Marijuana Center as its primary center.

E. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to sell Medical Marijuana or Medical Marijuana-Infused Product to a patient.

F. Storage and Display Limitations. A Medical Marijuana Center shall not display Medical Marijuana and Medical Marijuana-Infused Product outside of a designated Restricted Access Area or in a manner in which Medical Marijuana or Medical Marijuana-Infused Product can be seen from outside the Licensed Premises. Storage of Medical Marijuana and Medical Marijuana-Infused Product shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

G. Sale of Expired Product Prohibited. A Medical Marijuana Center shall not sell any expired Medical Marijuana-Infused Product.

G.1 A Medical Marijuana Center shall not sell or give away Medical Marijuana or Medical Marijuana-Infused Product to a Medical Marijuana Transporter, and shall not buy, or receive complimentary Medical Marijuana or Medical Marijuana-Infused Product from a Medical Marijuana Transporter.

G.2 A Medical Marijuana Center shall not compensate its employees using performance-based sales incentives. Performance-based incentives that are not sales-based are acceptable. Examples of performance-based incentives that are not sales-based include recognition for providing quality information to consumers, or the duration of the employee's employment with the Medical Marijuana Center.

G.3 Edibles Prohibited that are Shaped like a Human, Animal, or Fruit. This paragraph G.3 is effective beginning October 1, 2017.

1. The sale or donation of Edible Medical Marijuana-Infused Products in the following shapes is prohibited:

    a. The distinct shape of a human, animal, or fruit; or

    b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Medical Marijuana Business. Nothing in this subparagraph (G.3)(2) alters or eliminates a Licensee's obligation to comply with the requirements of rule M 1001.5 – Labeling and Packaging Requirements: General Applicability.

3. Edible Medical Marijuana-Infused Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana-Infused Products that are manufactured in the shape of a marijuana leaf are permissible.

H. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – M 406

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(h), 12-43.3-202(2)(a)(XX), and 12-43.3-402(1)(b), C.R.S. The purpose of this rule is to require all Medical Marijuana-Centers to track all inventory from the point it is received to the point of sale or transfer to another Medical Marijuana Center.

M 406 – Medical Marijuana Center: Inventory Tracking System

A. Minimum Tracking Requirement. Medical Marijuana Centers must use the Inventory Tracking System to ensure its Medical Marijuana and Medical Marijuana-Infused Product are identified and tracked from the point they are transferred from an Optional Premises Cultivation Operation, Medical Marijuana-Infused Products Manufacturer, or Medical Marijuana Transporter through the point of sale. *See also* Rule M 309 – Inventory Tracking System. Medical Marijuana Center: Inventory Tracking System. The Medical Marijuana Center must have the ability to reconcile its inventory records with the Inventory Tracking System and the associated transaction history and sale receipts. *See also* Rule M 901 – Business Records Required.

1. A Medical Marijuana Center is prohibited from accepting any Medical Marijuana or Medical Marijuana-Infused Product from an Optional Premises Cultivation Operation, Medical Marijuana-Infused Products Manufacturer, or Medical Marijuana Transporter without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Medical Marijuana Center must immediately input all Medical Marijuana or Medical Marijuana-Infused Product delivered to the Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System at the time of delivery from an Optional Premises Cultivation Operation, Medical Marijuana-Infused Products Manufacturer, or Medical Marijuana Transporter.

3. A Medical Marijuana Center must immediately account for all Medical Marijuana sold or transferred to another Medical Marijuana Center in the Inventory Tracking System.

4. A Medical Marijuana Center must reconcile transactions from their point of sale processes and on-hand inventory to the Inventory Tracking System at the close of business each day.

M 500 Series – Medical Marijuana Optional Premises Cultivation Operation: License Privileges

Basis and Purpose – M 501

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), and 12-43.4-401(4), and sections 12-43.3-310, 12-43.4-402, 12-43.3-403, 12-43.3-404, and 12-43.4-406, C.R.S. The purpose of this rule is to establish that it is unlawful for an Optional Premises Cultivation Operation to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

M 501 – Medical Marijuana Optional Premises Cultivation Operation: License Privileges

A. Privileges Granted. A Medical Marijuana Optional Premises Cultivation Operation shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule M 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Medical Marijuana Optional Premises Cultivation Facility may share a location with a commonly-owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business entity regardless of geographical location.

C. Cultivation of Medical Marijuana Authorized. A Medical Marijuana Optional Premises Cultivation Operation may Propagate, cultivate, harvest, prepare, cure, package, store, and label Medical Marijuana, whether in concentrated form or otherwise.

D. Authorized Sales. A Medical Marijuana Optional Premises Cultivation Operation may only transfer Medical Marijuana to the Medical Marijuana Center or Medical Marijuana Infused Products Manufacturer it is designated to pursuant to section 12-43.3-403, C.R.S.

E. Packaging Processed Medical Marijuana. Processed Medical Marijuana plants shall be packaged in units of ten pounds or less and labeled pursuant to Rule M 1002 - Labeling Requirements: General Requirements and securely sealed in a tamper-evident manner.

1. The packages must be transported to the receiving Medical Marijuana Business within 7 days of receiving notification that the Harvest Batch from the processed Medical Marijuana passed required testing, and recorded as inventory at the receiving Medical Marijuana Business.

2. In the event that the Harvest Batch from the processed Medical Marijuana does not pass required testing, the Licensee shall follow the procedures in rule M 1507 for the Harvest Batch. If the Harvest Batch ultimately passes required testing, then the packages of Medical Marijuana associated with the Harvest Batch must be transported to the Medical Marijuana Business within 7 days of receiving notification that the Harvest Batch passed the additional round of testing, and recorded as inventory at the receiving Medical Marijuana Business.

F. Authorized Marijuana Transport. A Medical Marijuana Optional Premises Cultivation is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this rule prevents a Medical Marijuana Optional Premises Cultivation from transporting its own Medical Marijuana.

G. A Medical Marijuana Optional Premises Cultivation may compensate its employees using performance-based incentives.

Basis and Purpose – M 502

The statutory authority for this rule is found at subsections 12-43.3-103(2)(b), 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(XVI), and 12-43.3-202(2)(a)(XX), and sections 12-43.3-310, 12-43.3-402, 12-43.3-403 and 12-43.3-406, 12-43.3-201, C.R.S. The purpose of this rule is to clarify what activity is or is not allowed at an Optional Premises Cultivation Operation.

M 502 – Medical Marijuana Optional Premises Cultivation Operation: General Limitations or Prohibited Acts

A. Transfer Restriction. An Optional Premises Cultivation Operation may only transfer Medical Marijuana to its commonly-owned Medical Marijuana Center or to a Medical Marijuana Transporter.

B. Packaging and Labeling Standards Required. An Optional Premises Cultivation Operation is prohibited from selling Medical Marijuana that is not packaged and labeled in accordance with these rules. *See* Rules M 1001 – Packaging Requirements: General Requirements and M 1002 – Labeling Requirements: General Requirements.

C. Sale to Patient Prohibited. An Optional Premises Cultivation Operation is prohibited from selling Medical Marijuana to a patient.

D. Consumption Prohibited. An Optional Premises Cultivation Operation shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. A Medical Marijuana Optional Premises Cultivation shall not sell or give away Medical Marijuana or Medical Marijuana-Infused Product to a Medical Marijuana Transporter, and shall not buy or receive complimentary Medical Marijuana or Medical-Marijuana Infused Product from a Medical Marijuana Transporter.

Basis and Purpose – M 503

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(h), 12-43.3-202(2)(a)(XX), and 12-43.3-403(3), C.R.S. The purpose of this rule is to eliminate diversion of Medical Marijuana.

M 503 – Medical Marijuana Optional Premises Cultivation Operation: Inventory Tracking System

A. Minimum Tracking Requirement. An Optional Premises Cultivation Operation must use the Inventory Tracking System to ensure its inventories are identified and tracked from the point Medical Marijuana is Propagated from seed or cutting to the point when it is delivered to a Medical Marijuana Business. *See also* Rule M 309, Medical Marijuana Business: Inventory Tracking System. An Optional Premises Cultivation Operation must have the ability to reconcile its inventory records generated from the Inventory Tracking System and the associated transaction history and sale receipts. *See also* Rule M 901 – Business Records Required.

1. An Optional Premises Cultivation Operation is prohibited from accepting any Medical Marijuana from another Medical Marijuana Optional Premises Cultivation Operation or Medical Marijuana Transporter without receiving a valid transport manifest generated from the Inventory Tracking System.

2. An Optional Premises Cultivation Operation must immediately input all Medical Marijuana delivered to its Licensed Premises and account for all RFID tags into the Inventory Tracking System at the time of delivery from another Medical Marijuana Optional Premises Cultivation Facility or Medical Marijuana Transporter.

3. An Optional Premises Cultivation Operation must reconcile its transaction history and on-hand Medical Marijuana to the Inventory Tracking System at the close of business each day.

Basis and Purpose – M 506

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XX), and 12-43.3-202(2.5)(a)(1)(A) through (F), C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at an Optional Premises Cultivation Operation and standards for the production of those concentrate.

M 506 – Optional Premises Cultivation Operation: Medical Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Medical Marijuana Concentrate. An Optional Premises Cultivation Operation may only produce Water-Based Medical Marijuana Concentrate on its Licensed Premises and only in an area clearly designated for concentrate production on the current diagram of the Licensed Premises. See Rule M 901- Business Records Required. No other method of production or extraction for Medical Marijuana Concentrate may be conducted within the Licensed Premises of an Optional Premises Cultivation Operation unless the Owner(s) of the Optional Premises Cultivation Operation also has a valid Medical Marijuana-Infused Products Manufacturer license and the room in which Medical Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If an Optional Premises Cultivation Operation produces Water-Based Medical Marijuana Concentrate, then all areas in which those concentrate are produced and all Owners and Occupational Licensees engaged in the production of those concentrate shall be subject to all of requirements imposed upon a Medical Marijuana-Infused Products Manufacturer that produces Medical Marijuana Concentrate, including general requirements. See Rule M 604 – Medical Marijuana-Infused Products Manufacturer: Health and Safety Regulations and Rule M 605 Medical Marijuana-Infused Products Manufacturer: Medical Marijuana Concentrate Production.

C. Possession of Other Categories of Medical Marijuana Concentrate.

1. It shall be considered a violation of this rule if an Optional Premises Cultivation Operation possesses a Medical Marijuana Concentrate other than a Water-Based Medical Marijuana Concentrate on its Licensed Premises unless the Owner(s) of the Optional Premises Cultivation Operation also has a valid Medical Marijuana-Infused Products Manufacturer license.

2. Notwithstanding subparagraph (C)(1) of this rule R 505, an Optional Premises Cultivation Operation shall be permitted to possess Solvent-Based Medical Marijuana Concentrate only when the possession is due to the transfer of Medical Marijuana flower or trim that failed microbial testing to a Medical Marijuana-Infused Products Manufacturing Facility for processing into a Solvent-Based Medical Marijuana Concentrate, and the Medical Marijuana-Infused Products Manufacturing Facility transfers the resultant Solvent-Based Medical

Marijuana Concentrate back to the originating Optional Premises Cultivation Operation.

a. The Optional Premises Cultivation Operation shall comply with all requirements in rule M 1507(B.1) when having Solvent-Based Medical Marijuana Concentrate manufactured out of Medical Marijuana flower or trim that failed microbial testing.

b. The Optional Premises Cultivation Operation is responsible for submitting the Solvent-Based Medical Marijuana Concentrate for all required testing for contaminants pursuant to rule M 1501 – Medical Marijuana Testing Program – Contaminant Testing, for potency pursuant to rule M 1503 – Medical Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Medical Marijuana Rules or Medical Marijuana Code.

M 600 Series – Medical Marijuana-Infused Products Manufacturers

Basis and Purpose – M 601

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I)(A-F), , 12-43.3-406(1)(c), and 12-43.3-406(4)(b), and section 12-43.3-404, C.R.S. The purpose of this rule is to establish that it is unlawful for a Medical Marijuana-Infused Products Manufacturer to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

M 601 – Medical Marijuana-Infused Products Manufacturer: License Privileges

A. Privileges Granted. A Medical Marijuana-Infused Products Manufacturer shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Products Manufacturing Facility may share a location with a commonly owned Medical Marijuana-Infused Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Sales Restricted. A Medical Marijuana-Infused Products Manufacturer may only sell its own Medical Marijuana-Infused Product to Medical Marijuana Centers.

D. Manufacture of Medical Marijuana-Infused Product Authorized. A Medical Marijuana-Infused Products Manufacturer may manufacture, prepare, package, and label Medical Marijuana-Infused Product, whether in concentrated form or that are comprised of Medical Marijuana and other ingredients intended for use or consumption, such as edible products, ointments, or tinctures.

E. Location Prohibited. A Medical Marijuana-Infused Products Manufacturer may not manufacture, prepare, package, store, or label Medical Marijuana-Infused Product in a location that is operating as a retail food establishment or a wholesale food registrant.

F. Samples Provided for Testing.

1. This rule M 601(F)(1) is repealed effective July 1, 2016. A Medical Marijuana-Infused Products Manufacturer may provide samples of its Medical Marijuana-Infused Product to a Retail Marijuana Testing Facility that has obtained an Occupational License to test and research Medical Marijuana for testing and research purposes. The Medical Marijuana-Infused Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule M 901 – Business Records Required.

1.5. This rule M 601(F)(1.5) is effective beginning July 1, 2016. A Medical Marijuana-Infused Products Manufacturer may provide samples of its Medical Marijuana-Infused Product to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana-Infused Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule M 901 – Business Records Required.

G. Authorized Marijuana Transport. A Medical Marijuana-Infused Products Manufacturer is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana-Infused Product so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this rule prevents a Medical Marijuana-Infused Products Manufacturer from transporting its own Medical Marijuana.

H. A Medical Marijuana-Infused Products Manufacturer may compensate its employees using performance-based incentives.

Basis and Purpose – M 602

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XVII.6) and (XX), 12-43.3-404(3), and 12-43.3-406(1)(a) C.R.S. The Medical Code sets forth minimum requirements for written agreements between Medical Marijuana-Infused Products Manufacturers and Medical Marijuana Centers. Specifically, the written agreements must set forth the total amount of Medical Marijuana obtained from a Medical Marijuana Center licensee to be used in the manufacturing process, and the total amount of Medical Marijuana-Infused Product to be manufactured from the Medical Marijuana obtained from the Medical Marijuana Center. This rule clarifies that the Division must approve such written agreements to ensure they meet those requirements.

M 602 – Medical Marijuana-Infused Products Manufacturer: General Limitations or Prohibited Acts

A. Contract Required. Any contract required pursuant to section 12-43.3-404(3), C.R.S., shall contain such minimum requirements as to form and substance as required by statute. All contracts need to be current and available for inspection on the Licensed Premises by the Division when requested. *See* Rule M 901 – Business Records and Reporting.

B. Packaging and Labeling Standards Required. A Medical Marijuana-Infused Products Manufacturer is prohibited from selling Medical Marijuana-Infused Product that are not properly packaged and labeled. *See* M 1000 Series – Labeling, Packaging, and Product Safety.

C. Sale to Consumer Prohibited. A Medical Marijuana-Infused Products Manufacturer is prohibited from selling Medical Marijuana or Medical Marijuana-Infused Product to a consumer.

D. Consumption Prohibited. A Medical Marijuana-Infused Products Manufacturer shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. Adequate Care of Perishable Product. A Medical Marijuana-Infused Products Manufacturer must provide adequate refrigeration for perishable Medical Marijuana-Infused Product that will be consumed and shall utilize adequate storage facilities and transport methods.

F. Homogeneity of Edible Retail Marijuana Product. A Medical Marijuana-Infused Products Manufacturer must ensure that its manufacturing processes are designed so that the cannabinoid content of any Edible Medical Marijuana-Infused Product is homogenous.

G. A Medical Marijuana-Infused Products Manufacturer shall not sell or give away Medical Marijuana or Medical Marijuana-Infused Product to a Medical Marijuana Transporter, and shall not buy or receive complimentary Medical Marijuana or Medical Marijuana-Infused Product from a Medical Marijuana Transporter.

Basis and Purpose – M 603

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XVIII.6) and (XX), and 12-43.3-406(3) and section 12-43.3-404, C.R.S. The purpose of this rule is to require all Medical Marijuana-Infused Products Manufacturers to track all inventory from the point it is received, through any manufacturing processes, to the point of sale or transfer to another Medical Marijuana Business.

M 603 – Medical Marijuana-Infused Products Manufacturer: Inventory Tracking System

A. Minimum Tracking Requirement. A Medical Marijuana-Infused Products Manufacturer must use the Inventory Tracking System to ensure its inventories are identified and tracked from the point they are transferred from a commonly owned Optional Premises Cultivation Operation, Medical Marijuana Center, or Medical Marijuana Transporter through wholesale transaction or transfer. *See also* Rule M 309 – Medical Marijuana Business: Inventory Tracking System. A Medical Marijuana-Infused Products Manufacturer must have the ability to reconcile its inventory records with the Inventory Tracking System and the associated transaction history and sale receipts. *See also* Rule M 901 – Business Records Required.

1. A Medical Marijuana-Infused Products Manufacturer is prohibited from accepting any Medical Marijuana from any Optional Premises Cultivation Operation or Medical Marijuana Transporter without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Medical Marijuana-Infused Products Manufacturer must immediately input all Medical Marijuana delivered to the Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System at the time of delivery from a commonly owned Optional Premises Cultivation Operation, a Medical Marijuana Center, or a Medical Marijuana Transporter.

3. A Medical Marijuana-Infused Products Manufacturer must reconcile transactions to the Inventory Tracking System at the close of business each day.

Basis and Purpose – M 604

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XIV),12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-202(2.5)(a)(III)(A)&(B), and section 12-43.3-404, C.R.S. The purpose of this rule is to establish minimum health and safety regulations for Medical Marijuana-Infused Products Manufacturers. It requires all Owners and Occupational Licensees to attend a food handler training course prior to manufacturing any Edible Medical Marijuana Product. This rule also authorizes the State Licensing Authority to require that an independent consultant conduct an independent food safety audit of a Medical Marijuana Infused-Products Manufacturing Facility. This rule explains when an independent food safety audit may be deemed necessary and sets forth possible consequences of a Medical Marijuana-Infused Products Manufacture's refusal to cooperate or pay for the audit. It sets forth general standards and basic sanitary requirements for Medical Marijuana-Infused Products Manufacturers. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority modeled this rule after those adopted by the Colorado Department of Public Health and Environment. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses and the safety of the public. Product safety requirements are being adopted to aid in making Medical Marijuana-Infused Products more readily identifiable to the general public outside of packaging as containing Medical Marijuana. While product safety requirements are stated in this rule, nothing in the requirements interferes with a manufacturer's ability to determine portions for its products or to provide a mechanism with the product for accurately measuring a portion.

M 604 – Medical Marijuana-Infused Products Manufacturer: Health and Safety Regulations

A. Training

1. Prior to engaging in the manufacture of any Edible Medical Marijuana-Infused Product each Owner or Occupational Licensee must:

   a. Have a currently valid ServSafe Food Handler Certificate obtained through the successful completion of an online assessment or print exam; or

   b. Take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Any course taken pursuant to this rule must last at least two hours and cover the following subjects:

      i. Causes of foodborne illness, highly susceptible populations and worker illness;

      ii. Personal hygiene and food handling practices;

      iii. Approved sources of food;

      iv. Potentially hazardous foods and food temperatures;

      v. Sanitization and chemical use; and

      vi. Emergency procedures (fire, flood, sewer backup).

2. A Medical Marijuana-Infused Products Manufacturer must obtain documentation evidencing that each Owner or Occupational Licensee has successfully completed the examination or course required by this rule and is in good

standing. A copy of the documentation must be kept on file at any Licensed Premises where that Owner or Occupational Licensee is engaged in the manufacturing of an Edible Medical Marijuana-Infused Product.

B. General Standards

1. A Medical Marijuana-Infused Products Manufacturer may be subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Medical Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

2. A Medical Marijuana-Infused Products Manufacturer that manufacturers Edible Medical Marijuana-Infused Product shall comply with all kitchen-related health and safety standards of the relevant local licensing authority and, to the extent applicable, with all Colorado Department of Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

C. General Sanitary Requirements. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for Medical Marijuana or Medical Marijuana-Infused Product shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and/or in Medical Marijuana-Infused Product preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with preparation of Medical Marijuana or Medical Marijuana-Infused Product shall conform to hygienic practices while on duty, including but not limited to:

   a. Maintaining adequate personal cleanliness;

   b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work, prior to engaging in the production of a Medical Marijuana Concentrate or manufacture of a Medical Marijuana-Infused Product and at any other time when the hands may have become soiled or contaminated; and

   c. Refraining from having direct contact with preparation of Medical Marijuana or Medical Marijuana-Infused Product if the person has or may have an illness, open lesion, including boils, sores, or infected wounds,

or any other abnormal source of microbial contamination, until such condition is corrected.

4. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Medical Marijuana or Medical Marijuana-Infused Product;

5. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marijuana or Medical Marijuana-Infused Product are exposed;

6. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

7. That there is adequate safety-type lighting in all areas where Medical Marijuana or Medical Marijuana-Infused Product are processed or stored and where equipment or utensils are cleaned;

8. That the Licensed Premises provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

9. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

10. That all contact surfaces, including utensils and equipment used for the preparation of Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Medical Marijuana-Infused Products Manufacturer and used in accordance with labeled instructions;

11. That toxic cleaning compounds, sanitizing agents, solvents used in the production of Medical Marijuana Concentrate and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product, and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation or ordinance;

12. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises needs;

13. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable and waste water lines;

14. That each Medical Marijuana-Infused Products Manufacturer shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;

15. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Medical Marijuana or Medical Marijuana-Infused Product shall be conducted in accordance with adequate sanitation principles;

16. That Medical Marijuana or Medical Marijuana-Infused Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

17. That storage and transport of finished Medical Marijuana-Infused Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any container.

C.5. Product Safety.

Paragraph (C.5) is effective beginning October 1, 2016.

1. A Medical Marijuana-Infused Products Manufacturer that manufactures Edible Medical Marijuana-Infused Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Medical Marijuana-Infused Product it manufactures. These procedures and processes must be documented and made available on the Licensed Premises for inspection by the Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

2. A Medical Marijuana-Infused Products Manufacturer may determine a standard portion of THC for each Edible Medical Marijuana-Infused Product it manufactures. If a Medical Marijuana-Infused Products Manufacturer determines a standard portion for an Edible Medical Marijuana-Infused Product, that information must be documented in the product's standard production procedure.

3. For each Edible Medical Marijuana-Infused Product, the total amount of active THC contained within the product must be documented in the standard production procedures.

4. Universal Symbol Marking Requirements.

    a. The following categories of Edible Medical Marijuana-Infused Products shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the Medical Marijuana-Infused Product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable.

        i. Chocolate

        ii. Soft confections

        iii. Hard confections or lozenges

        iv. Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar)

v. Pressed pills and capsules

b. The Universal Symbol marking shall:

i. Be marked, stamped, or otherwise imprinted on at least one side of the Edible Medical Marijuana-Infused Product;

ii. Be centered either horizontally or vertically on the Edible Medical Marijuana-Infused Product; and

iii. If centered horizontally on the Edible Medical Marijuana-Infused Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's width, but not less than ¼ inch by ¼ inch; or

iv. If centered vertically on the Edible Medical Marijuana-Infused Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

c. If a Medical Marijuana-Infused Products Manufacturer elects to determine portions for an Edible Medical Marijuana-Infused Product, then the Universal Symbol shall be applied to each portion in accordance with the requirements of subsubparagraph (C.5)(4)(b) of this rule M 604. Except that the size of the Universal Symbol marking shall be determined by the size of the portion instead of the overall product size, and shall not be less than ¼" by ¼".

d. Edible Medical Marijuana-Infused Products that are liquids, loose bulk goods (e.g. granola, cereals, popcorn), or powders, are exempt from the Universal Symbol marking requirements provided that they comply with the labeling and Child-Resistant Container packaging requirements of rule M 1004.5.

5. Remanufactured Products Prohibited. A Medical Marijuana-Infused Products Manufacturer shall not utilize a commercially manufactured food product as its Edible Medical Marijuana-Infused Product. The following exceptions to this prohibition apply:

a. A food product that was commercially manufactured specifically for use by the Medical Marijuana-Infused Products Manufacturer Licensee to infuse with marijuana shall be allowed. The Licensee shall have a written agreement with the commercial food product manufacturer that declares the food product's exclusive use by the Medical Marijuana-Infused Products Manufacturer.

b. Commercially manufactured food products may be used as ingredients in a Medical Marijuana-Infused Products Manufacturer's Edible Medical Marijuana-Infused Product so long as: (1) they are used in a way that renders them unrecognizable as the commercial food product in the final Edible Medical Marijuana-Infused Product, and (2) the Medical Marijuana-Infused Products Manufacturer does not state or advertise to the consumer that the final Edible Medical Marijuana-Infused Product contains the commercially manufactured food product.

6. Trademarked Food Products. Nothing in this rule alters or eliminates a Medical Marijuana-Infused Products Manufacturer's responsibility to comply with the trademarked food product provisions required by the Medical Code per 12-43.3-404(11)(a-c), C.R.S.

7. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit. This subparagraph (C.5)(7) is effective beginning October 1, 2017.

a. The production, sale, and donation of Edible Medical Marijuana-Infused Products in the following shapes is prohibited:

i. The distinct shape of a human, animal, or fruit; or

ii. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

b. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Medical Marijuana Business. Nothing in this subsubparagraph (C.5)(7)(b) alters or eliminates a Licensee's obligation to comply with the requirements of rule M 1001.5 – Labeling and Packaging Requirements: General Applicability.

c. Edible Medical Marijuana-Infused Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

d. Edible Medical Marijuana-Infused Products that are manufactured in the shape of a marijuana leaf are permissible.

D. Standard Operating Procedures

1. A Medical Marijuana-Infused Products Manufacturer must have written standard operating procedures for each category of Medical Marijuana Concentrate and type of Medical Marijuana-Infused Product that it produces.

a. All standard operating procedures for the production of a Medical Marijuana Concentrate must follow the requirements in Rule M 605.

b. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Medical Marijuana-Infused Products Manufacturer.

2. If a Medical Marijuana-Infused Products Manufacturer makes a Material Change to its standard Medical Marijuana Concentrate or Medical Marijuana-Infused Product production process, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

E. Independent Health and Sanitary Audit

1. State Licensing Authority May Require An Independent Health and Sanitary Audit

a. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Medical Marijuana-Infused Products Manufacturer to undergo such an

audit. The scope of the audit may include, but need not be limited, to whether the Medical Marijuana-Infused Products Manufacturer is in compliance with the requirements set forth in this rule or other applicable food handling laws, rules or regulations and in compliance with the concentrate production rules in Rule M 605 or other applicable laws, rules and regulations.

b. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Medical Marijuana-Infused Products Manufacturer. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Medical Marijuana-Infused Products Manufacturer will be responsible for all direct costs associated with the independent health and sanitary audit.

2. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

a. A Medical Marijuana-Infused Products Manufacturer does not provide requested records related to the food handling training required for Owners and Occupational Licensees engaged in the production of Edible Medical Marijuana-Infused Products to the Division;

b. A Medical Marijuana-Infused Products Manufacturer does not provide requested records related to the production of Medical Marijuana Concentrate, including but not limited to, certification of its Licensed Premises, equipment or standard operating procedures, training of Owners or employees, or Production Batch specific records;

c. The Division has reasonable grounds to believe that the Medical Marijuana-Infused Products Manufacturer is in violation of one or more of the requirements set forth in this rule or Rule M 605; or

d. The Division has reasonable grounds to believe that the Medical Marijuana-Infused Products Manufacturer was the cause or source of contamination of Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product; or

e. Multiple Production Batches of Medical Marijuana Concentrate or Medical Marijuana-Infused Product produced by the Medical Marijuana-Infused Products Manufacturer failed contaminant testing.

3. Compliance Required. A Medical Marijuana-Infused Products Manufacturer must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this rule.

4. Suspension of Operations

a. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the public health, safety or welfare imperatively requires emergency

action and incorporates such findings into its order, it may order summary suspension of the Medical Marijuana-Infused Products Manufacturer's license. See Rule M 1302 – Disciplinary Process: Summary Suspensions.

b. Prior to or following the issuance of such an order, the Medical Marijuana-Infused Products Manufacturer may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

i. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. See Rule M 1302 – Disciplinary Process: Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Medical Marijuana-Infused Products Manufacturer may continue to care for its inventory and conduct any necessary internal business operations but it may not sell, transfer or wholesale Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product to another Medical Marijuana Business during the period of time specified in the agreement. Depending on the condition of the Licensed Premises and required remedial measures, the Division may permit a Medical Marijuana-Infused Products Manufacturer to produce Medical Marijuana Concentrate or manufacture Medical Marijuana-Infused Product while operations have been suspended.

F. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

M 700 Series – Medical Marijuana Testing Facilities

Basis and Purpose – M 701.5

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XVIII.6), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I)(A), 12-43.3-310(8)(a), 12-43.3-402(6), 12-43.3-404(10), and sections 12-43.3-405 and 12-43.3-406, C.R.S. The purpose of this rule is to establish that it is unlawful for a Medical Marijuana Testing Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

M 701.5 - Medical Marijuana Testing Facilities: License Privileges

A. Privileges Granted. A Medical Marijuana Testing Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate License is required for each specific Medical Marijuana Testing Facility and only those privileges granted by the Medical Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises.

C. Testing of Medical Marijuana and Medical Marijuana Infused-Product Authorized. A Medical Marijuana Testing Facility may accept Samples of Medical Marijuana or Medical Marijuana Infused-Product from Medical Marijuana Businesses for testing and research purposes only. The Division may require a Medical Marijuana Business to submit a sample of Medical Marijuana or Medical Marijuana Infused-Product to a Medical Marijuana Testing Facility upon demand.

D. Product Development Authorized. A Medical Marijuana Testing Facility may develop Medical Marijuana Infused-Product, but is not authorized to engage in the manufacturing privileges described in section 12-43.3-404, C.R.S. and Rule M 601 – Medical Marijuana Infused-Products Manufacturer: License Privileges.

E. Sending Samples to Another Licensed and Certified Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility may send Samples to another Medical Marijuana Testing Facility for testing. All laboratory reports provided to a Medical Marijuana Business must identify the Medical Marijuana Testing Facility that actually conducted the test.

F. Authorized Marijuana Transport. A Medical Marijuana Testing Facility is authorized to utilize a licensed Medical Marijuana Transporter to transport Samples of Medical Marijuana and Medical Marijuana-Infused Product for testing, in accordance with the Medical Marijuana Code and Medical Marijuana Rules, between the originating Medical Marijuana Business requesting testing services and the destination Medical Marijuana Testing Facility performing testing services. Nothing in this rule requires a Medical Marijuana Testing Facility, Medical Marijuana Center, Medical Marijuana Optional Premises Cultivation, or Medical Marijuana-Infused Products Manufacturer to utilize a Medical Marijuana Transporter to transport Samples of Medical Marijuana or Medical Marijuana-Infused Product for testing.

Basis and Purpose – M 702

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XVIII.6), 12-43.3-202(2)(a)(XX), 12-43.3-405, 12-43.3-901, 12-43.4-405, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Testing Facility.

M 702 – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is an Owner of an Optional Premises Cultivation, Medical Marijuana Infused-Products Manufacturing Facility, Medical Marijuana Center, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Store shall not be an Owner of a Medical Marijuana Testing Facility.

B. Sale of Marijuana Prohibited. A Medical Marijuana Testing Facility is prohibited from selling, distributing, or transferring Retail Marijuana, Retail Marijuana Product, Medical Marijuana, or Medical Marijuana-Infused Product to a Retail Marijuana Establishment, a Medical Marijuana Business, or a consumer, except that a Medical Marijuana Testing Facility may transfer a Sample to another Medical Marijuana Testing Facility.

C. Destruction of Received Medical Marijuana. A Medical Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not transferred to another Medical Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule M 307 – Waste Disposal.

D. Consumption Prohibited. A Medical Marijuana Testing Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. Sample Rejection. A Medical Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that that the sample may have been tampered with.

F. Medical Marijuana Business Requirements Applicable. A Medical Marijuana Testing Facility shall be considered a Licensed Premises. A Medical Marijuana Testing Facility shall be subject to all requirements applicable to Medical Marijuana Businesses.

G. Medical Marijuana Testing Facility – Inventory Tracking System Required. A Medical Marijuana Testing Facility must use the Inventory Tracking System to ensure its Samples are identified and tracked from the point they are transferred from a Medical Marijuana Business through the point of destruction or disposal. *See also* Rule M 309 – Medical Marijuana Business: Inventory Tracking System. The Medical Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See also* Rule M 901 – Business Records Required.

H. Industrial Hemp Testing Prohibited. A Medical Marijuana Testing Facility shall not perform testing on Industrial Hemp.

I. A Medical Marijuana Testing Facility shall not sell or give away Medical Marijuana or Medical Marijuana-Infused Product to a Medical Marijuana Transporter, and shall not buy, or receive complimentary Medical Marijuana or Medical Marijuana-Infused Product from a Medical Marijuana Transporter.

Basis and Purpose – M 703

The statutory authority for this rule is found at subsection 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(IV), 12-43.3-202(2)(a)(X), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I) and section 12-43.3-405, C.R.S. The purpose of this rule is to establish a frame work for certification for Medical Marijuana Testing Facilities.

M 703 – Medical Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Medical Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Microbials;

2. Residual solvents;

3. Chemical Contaminants;

4. Biological Contaminants; and

5. THC and other Cannabinoid potency.

B. Certification Procedures. The Medical Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this rule.

1. Certification Inspection. A Medical Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Medical Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, proficiency testing, quality control, quality assurance, security, chain of custody, specimen retention, space, records, and results reporting.

3. Personnel Qualifications

   a. Laboratory Director. A Medical Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule M 704 – Retail Marijuana Testing Facilities: Personnel.

   b. Employee Competency. A Medical Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Medical Marijuana Testing Facility must have a written procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

   a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign and date the revised version prior to use.

   b. A Medical Marijuana Testing Facility must maintain a copy of all Standard Operating Procedures to include any revised copies for a minimum of three years. *See* Rule M 901 – Business Records Required.

5. Analytical Processes. A Medical Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Medical Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Medical Marijuana Testing Facility must successfully participate in a Division approved proficiency testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Medical Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Medical Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Medical Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. Space. A Medical Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.

11. Records. A Medical Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years.

12. Results Reporting. A Medical Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner.

13. Conduct While Seeking Certification. A Medical Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner. A violation of this rule may be considered a license violation affecting public safety.

Basis and Purpose – M 704

The statutory authority for this rule is found at subsection 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX),12-43.3-202(2.5)(a)(I) and section 12-43.3-405, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Medical Marijuana Testing Facility.

M 704 – Medical Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Medical Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Medical Marijuana Testing Facility.

2. The laboratory director for a Medical Marijuana Testing Facility must meet one of the following qualification requirements:

a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing

analytical scientific testing in which the testing methods were recognized by an accrediting body; or

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule M 901 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Medical Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in a Division approved proficiency testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process specimens, perform test procedures and report test results promptly and proficiently, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for specimen processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

C.5 Change in Laboratory Director. In the event that the laboratory director leaves employment at the Medical Marijuana Testing Facility, the Medical Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Marijuana Enforcement Division within seven days of the laboratory director’s departure; and

2. Designate an interim laboratory director within seven days of the laboratory director’s departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Medical Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director’s departure.

4. Notwithstanding the requirement of subparagraph (C.5)(3), the Medical Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Medical Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

D. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the three years of full-time laboratory experience.

E. Laboratory Testing Analyst

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing.

2. Responsibilities. In order to independently perform any test for a Medical Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

Basis and Purpose – M 712

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.4-203(2.5)(a)(I), 12-43.3-202(2)(a)(XIV), 12-43.4-202(2)(a)(XI), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(IV), 12-43.3-202(2)(a)(XX), and 12-43.3-405, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the portion of the Division's mandatory testing and random sampling program that is applicable to Medical Marijuana Testing Facilities. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of Senate Bill 15-260. Section 1 of the bill required the State Licensing Authority to establish an acceptable potency variance. The acceptable potency variance has been set at plus or minus 15% to comport with the potency variance mandated by the Retail Code.

M 712 – Medical Marijuana Testing Facilities: Sampling and Testing Program

A. Division Authority. The Division may elect to require that a Test Batch be submitted to a specific Medical Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

B. Test Batches

1. Medical Marijuana and Medical Marijuana Concentrate. A Medical Marijuana Testing Facility must establish a standard minimum weight of Medical Marijuana and Medical Marijuana Concentrate that must be included in a Test Batch for every type of test that it conducts.

2. Medical Marijuana Infused-Product. A Medical Marijuana Testing Facility must establish a standard number of finished product(s) it requires to be included in each Test Batch of Medical Marijuana Infused-Product for every type of test that it conducts.

C. Rejection of Test Batches and Samples

1. A Medical Marijuana Testing Facility may not accept a Test Batch that is smaller than its standard minimum amount.

2. A Medical Marijuana Testing Facility may not accept a Test Batch or Sample that it knows was not taken in accordance with these rules or any additional Division sampling procedures or was not collected by Division personnel.

D. Notification of Medical Marijuana Business. If Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana Infused-Product failed a contaminant test, then the Medical Marijuana Testing Facility must immediately notify the Medical Marijuana Business that submitted the sample for testing and report the failure in accordance with all Inventory Tracking System procedures.

E. Permissible Levels of Contaminants. If Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana Infused-Product is found to have a contaminant in levels exceeding those established as permissible under this rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this rule, the Division reserves the right to determine, upon good cause and reasonable grounds, that a particular Test Batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

1. Microbials

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
–Shiga-toxin producing Escherichia coli (STEC)*- Bacteria	< 1 Colony Forming Unit (CFU)	Flower; Medical Marijuana Infused-Product; Water- and Food-Based Medical Marijuana Concentrates
Salmonella species* – Bacteria	< 1 Colony Forming Unit (CFU)	
Total Yeast and Mold	< 10^4 Colony Forming Unit (CFU)	

*Testing facilities should contact the Colorado Department of Public Health and Environment when STEC and Salmonella are detected beyond the acceptable limits.

2. Residual Solvents

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
Butanes	< 5,000 Parts Per Million (PPM)	Solvent-Based Medical Marijuana Concentrate
Heptanes	< 5,000 Parts Per Million (PPM)	
Benzene**	< 2 Parts Per Million (PPM)	
Toluene**	< 890 Parts Per Million (PPM)	
Hexane**	< 290 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< 2,170 Parts Per Million (PPM)	
Any solvent not permitted for use pursuant to Rule R 605.	None Detected	

** Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use per Rule M 605, limits have been listed here accordingly.

3. Metals

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
Metals (Arsenic, Cadmium, Lead and Mercury)	Lead – Max Limit: < 1.0 ppm Arsenic – Max Limit: < 0.4 ppm Cadmium – Max Limit: < 0.4 ppm	Flower; Water-, Food-, and Solvent-Based Medical Marijuana Concentrates

	Mercury – Max Limit: < 0.2 ppm	

4. Other Contaminants

Pesticide	If testing identifies the use of a banned Pesticide or the improper application of a permitted Pesticide, then that Test Batch shall be considered to have failed contaminant testing.
Chemicals	If Test Batch is found to contain levels of any chemical that could be toxic if consumed, then the Division may determine that the Test Batch has failed contaminant testing.
Microbials	If Test Batch is found to contain levels of any microbial that could be toxic if consumed, then the Division may determine that the Test Batch has failed contaminant testing.

5. Division Notification. A Medical Marijuana Testing Facility must notify the Division if a Test Batch is found to contain levels of a contaminant not listed within this rule that could be injurious to human health if consumed.

F. Potency Testing

1. Cannabinoids Potency Profiles. A Medical Marijuana Testing Facility may test and report results for any cannabinoid provided the test is conducted in accordance with the Division's Medical Marijuana Testing Facility Certification Policy Statement.

2. Reporting of Results

a. For potency tests on Medical Marijuana and Medical Marijuana Concentrate, results must be reported by listing a single percentage concentration for each cannabinoid that represents an average of all samples within the Test Batch.

b. For potency tests conducted on Medical Marijuana Infused-Product, results must be reported by listing the total number of milligrams contained within a single Medical Marijuana-Infused Product unit for sale for each cannabinoid and affirming the THC content is homogenous.

3. Dried Flower. All potency tests conducted on Medical Marijuana must occur on dried and cured Medical Marijuana that is ready for sale.

4. Failed Potency Tests for Medical Marijuana Infused-Product

a. If the THC content of a Medical Marijuana Infused-Product is determined through testing not to be homogenous, then it shall be considered to have failed potency testing. A Medical Marijuana Infused-Product shall be considered not to be homogenous if 10% of the infused portion of the Medical Marijuana Infused-Product contains more than 20% of the total THC contained within entire Medical Marijuana Infused-Product.

5. Potency Variance. A potency variance of no more than plus or minus 15% is allowed.

M 800 Series – Transport and Storage

Basis and Purpose – M 801

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(h), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XVIII.6) 12-43.3-202(2)(a)(XX) and section 12-43.3-406, C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the transport and delivery of Medical Marijuana and Medical Marijuana-Infused Product between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

M 801 – Transport of Medical Marijuana, Medical Marijuana Vegetative Plants, and Medical Marijuana-Infused Product: All Medical Marijuana Businesses

A. Persons Authorized to Transport. The only Persons authorized to transport Medical Marijuana, Medical Marijuana Vegetative plants, or Medical Marijuana-Infused Product are those individuals licensed by the State Licensing Authority pursuant to section 12-43.3-401, C.R.S.; including Owners or others holding Occupational Licenses. An individual who does not possess a current and valid Occupational License from the State Licensing Authority may not transport Medical Marijuana, Medical Marijuana Vegetative plants, or Retail Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises.

1. Medical Marijuana and Medical Marijuana-Infused Product. Medical Marijuana and Medical Marijuana-Infused Product shall only be transported between Licensed Premises and between Licensed Premises and a permitted off-premises storage facility. Licensees transporting Medical Marijuana and Medical Marijuana-Infused Product are responsible for ensuring that all Medical Marijuana and Medical Marijuana-Infused Product are secured at all times during transport.

2. Medical Marijuana Vegetative Plants. Medical Marijuana Vegetative plants shall only be transported between Licensed Premises due to an approved change of location pursuant to rule M 206 – Changing Location of Licensed Premises: Medical Marijuana Businesses, or due to a one-time transfer pursuant to rule M 211 – Conversion - Medical Marijuana Business to Retail Marijuana Establishment. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed.

C. Inventory Tracking System-Generated Transport Manifest Required. A Licensee may only transport Medical Marijuana, Medical Marijuana Vegetative plants and Medical Marijuana-Infused Product if he or she has a hard copy of an Inventory Tracking System-generated transport manifest that contains all the information required by this rule and shall be in the format prepared by the State Licensing Authority.

1. Medical Marijuana and Medical Marijuana-Infused Product. A Licensee may transport Medical Marijuana or Medical Marijuana-Infused Product from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific licensed locations.

2. Medical Marijuana Vegetative Plants. A Licensee shall transport Medical Marijuana Vegetative plants only from the originating Licensed Premises to the destination Licensed Premises due to a change of location that has been approved by the Division, or from a Medical Marijuana Business to a Retail Marijuana Establishment due to a one-time transfer pursuant to rule M 211.

D. Motor Vehicle Required. Transport of Medical Marijuana and Medical Marijuana-Infused Product shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee. Except that when a rental truck is required for transporting Medical Marijuana Vegetative plants, Colorado motor vehicle registration is not required.

E. Documents Required During Transport. Transport of Medical Marijuana, Medical Marijuana Vegetative plants, or Medical Marijuana-Infused Product shall be accompanied by a copy of the originating Medical Marijuana Business's business license, the driver's valid Owner or Occupational License, the driver's valid motor vehicle operator's license, and all required vehicle registration and insurance information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Medical Marijuana, Medical Marijuana Vegetative plants, and Medical Marijuana-Infused Product on any public road within the state of Colorado as authorized in this rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transport of Medical Marijuana, Medical Marijuana Vegetative plants, or Medical Marijuana-Infused Product.

G. Preparation of Medical Marijuana and Medical Marijuana-Infused Product for Transport

1. Final Weighing and Packaging. A Medical Marijuana Business shall comply with the specific rules associated with the final weighing and packaging of Medical Marijuana or Medical Marijuana-Infused Product before such items are prepared for transport pursuant to this rule. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127,, C.R.S.

2. Preparation in Limited Access Area. Medical Marijuana and Medical Marijuana-Infused Product shall be prepared for transport in a Limited Access Area, including the packing and labeling of Shipping Containers.

3. Shipping Containers. Sealed packages or Containers must be placed in Shipping Containers. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, local licensing authorities, and state and local law enforcement agency for a purpose authorized by the Medical Code or for any other state or local law enforcement purpose.

G.5 Required RFID Tags for Medical Marijuana Vegetative Plants. Each Medical Marijuana Vegetative plant that is transported pursuant to this rule must have a RFID tag affixed to it prior to transport.

H. Creation of Records and Inventory Tracking

1. Use of Inventory Tracking System -Generated Transport Manifest.

a. Medical Marijuana or Medical Marijuana-Infused Product. Licensees who transport Medical Marijuana or Medical Marijuana-Infused Product shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the Licensed Premises for destinations to other licensed locations. The transport manifest may either reflect all deliveries for multiple locations within a single trip or separate transport manifests may reflect each single delivery. In either case, no inventory shall be transported without an Inventory Tracking System-generated transport manifest.

a.1 Use of a Medical Marijuana Transporter. In addition to subsubparagraph (H)(1)(a), Licensees shall also follow the requirements of this subsubparagraph (H)(1)(a.1) when a Licensee utilizes the services of a Medical Marijuana Transporter.

i. When a Medical Marijuana Center, Optional Premises Cultivation Operation, Medical Marijuana-Infused Products Manufacturer, or Medical Marijuana Testing Facility utilizes a Medical Marijuana Transporter for transporting its Medical Marijuana or Medical Marijuana-Infused Products, the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee who will be receiving the Medical Marijuana or Medical Marijuana-Infused Products.

ii. A Medical Marijuana Transporter is prohibited from being listed as the final destination Licensee.

iii. A Medical Marijuana Transporter shall not alter the information of the final destination Licensee after the information has been entered on the Inventory Tracking System-generated transport manifest by the originating Medical Marijuana Center, Optional Premises Cultivation Operation, Medical Marijuana-Infused Products Manufacturer, or Medical Marijuana Testing Facility.

iv. If the Medical Marijuana Transporter is not delivering the originating Licensee's Medical Marijuana or Medical Marijuana-Infused Product directly to the final destination Licensee, the Medical Marijuana Transporter shall communicate to the originating Licensee which of the Medical Marijuana Transporter's Licensed Premises or off-premises storage facilities will receive and temporarily store the Medical Marijuana or Medical Marijuana-Infused Product. The originating Licensee shall input the Medical Marijuana Transporter's location address and license number on the Inventory Tracking System-generated transport manifest.

b. Medical Marijuana Vegetative Plants.

i. Licensees who transport Medical Marijuana Vegetative plants shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the originating Licensed Premises to be transported to the destination Licensed Premises due to a change of location approved by the Division pursuant to rule M 206, or a one-time transfer pursuant to rule M 211.

ii. Medical Marijuana Transporters are permitted to transport Medical Marijuana Vegetative Plants on behalf of other Licensees due to a change of location approved by the Division pursuant to rule M 206, or a one-time transfer pursuant to rule M 211. The Medical Marijuana Transporter shall transport the Medical Marijuana Vegetative Plants directly from the originating Licensed Premises to the final destination Licensed Premises without any stops in between.

2. Copy of Transport Manifest to Receiver. A Licensee shall provide a copy of the transport manifest to each Medical Marijuana Business receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate Inventory Tracking System-generated transport manifest for each receiving Medical Marijuana Business.

3. The Inventory Tracking System-generated transport manifest shall include the following:

a. Departure date and approximate time of departure;

b. Name, location address, and license number of the originating Medical Marijuana Business;

c. Name, location address, and license number of the destination Medical Marijuana Business(es), or the destination Retail Marijuana Establishment in the event of a one-time transfer;

c.1 Name, location address, and license number of the Medical Marijuana Transporter if applicable pursuant to M 801(H)(1)(a.1)(iv).

d. Product name and quantities (by weight or unit) of each product to be delivered to each specific destination location(s);

e. Arrival date and estimated time of arrival;

f. Delivery vehicle make and model and license plate number; and

g. Name, Occupational License number, and signature of the Licensee accompanying the transport.

I. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Medical Marijuana Business shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule M 901 – Business Records Required.

1. Responsibilities of Originating Licensee.

a. Medical Marijuana or Medical Marijuana-Infused Product. Prior to departure, the originating Medical Marijuana Business shall adjust its records to reflect the removal of Medical Marijuana or Medical Marijuana-Infused Product. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127,, C.R.S. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

b. Medical Marijuana Vegetative Plants. Prior to departure, the originating Optional Premises Cultivation Operation shall adjust its records to reflect the removal of Medical Marijuana Vegetative plants. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Receiving Licensee.

a. Medical Marijuana or Medical Marijuana-Infused Product. Upon receipt, the receiving Licensee shall ensure that the Medical Marijuana or Medical Marijuana-Infused Product received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be tested and approved in accordance with measurement standards established in 35-14-127,, C.R.S. Entries to the inventory records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest. Medical Marijuana Transporters shall comply with all requirements of this subsubparagraph (l)(2)(a) except that they are not required to weigh Medical Marijuana or Medical Marijuana-Infused Products.

b. Medical Marijuana Vegetative Plants. Upon receipt, the receiving Licensee shall ensure that the Medical Marijuana Vegetative plants received are as described in the transport manifest, accounting for all RFID tags and each associated plant, and shall immediately adjust its records to reflect the receipt of inventory.

3. Discrepancies. A receiving Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in the Inventory Tracking System and in any relevant business records.

J. Adequate Care of Perishable Medical Marijuana-Infused Product. A Medical Marijuana Business must provide adequate refrigeration for perishable Medical Marijuana-Infused Product during transport.

Basis and Purpose – M 802

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(h), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XVIII.6) 12-43.3-202(2)(a)(XX), and 12-43.3-406(2), C.R.S. The purpose of this rule is to establish that Medical Marijuana and Medical Marijuana-Infused Product may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage permit.

M 802 – Off-Premises Storage of Medical Marijuana and Medical Marijuana-Infused Product: All Medical Marijuana Businesses

A. Off-premises Storage Permit Authorized. A Medical Marijuana Center, Medical Marijuana-Infused Products Manufacturer, and an Optional Premises Cultivation Operation may only store Medical Marijuana or Medical Marijuana-Infused Product in their Licensed Premises or in their one permitted off-premises storage facility. Medical Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Medical Marijuana Business must apply on current Division forms and pay any applicable fees. A Medical Marijuana Transporter may only apply for and hold an off-premises storage permit in a local jurisdiction that permits the operation of Medical Marijuana Centers.

C. Extension of Licensed Premises. A permitted off-premises storage facility shall constitute an extension of the Medical Marijuana Business' Licensed Premises and be subject to all to the conditions and restrictions established in Rule M 301 – Limited Access Areas.

D. Limitation on Inventory to be Stored. A Medical Marijuana Center, Medical Marijuana-Infused Products Manufacturer, and an Optional Premises Cultivation Operation may only have upon the permitted off-premises storage facility Medical Marijuana or Medical Marijuana-Infused Product that are part of the particular Medical Marijuana Business's finished goods inventory. The aforementioned Licensees may not share the premises with, nor store inventory belonging to, a Retail Marijuana Establishment or Medical Marijuana Business that is not commonly-owned.

E. Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Licensee may not sell, cultivate, manufacture, process, test, or consume any Medical Marijuana or Medical Marijuana-Infused Product within the premises of the permitted off-premises storage facility.

F. Display of Off-premises Storage Permit and License. The off-premises storage facility permit and a copy of the Medical Marijuana Business' license must be displayed in a prominent place within the permitted off-premises storage facility.

G. Local Licensing Authority Approval

1. Prior to submitting an application for an off-premises storage facility permit, the Licensee must obtain approval from the relevant local licensing authority.

2. A copy of the relevant local licensing authority's approval must be submitted by the Licensee in conjunction with its application for an off-premises storage facility.

3. No Medical Marijuana or Medical Marijuana-Infused Product may be stored within a permitted storage facility until the relevant local licensing authority has been provided a copy of the off-premises storage facility permit.

4. Any off-premises storage permit issued by the Division shall be conditioned upon the Medical Marijuana Business' receipt of all required local approvals.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video and security requirements applicable to a Licensed Premises.

I. Transport to or from a Permitted Off-premises Storage Facility. A Medical Marijuana Business must comply with Rule M 801 - Transport of Medical Marijuana and Medical Marijuana-Infused Product when transporting any Medical Marijuana or Medical Marijuana-Infused Product to and from a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Medical Marijuana Business shall utilize the Inventory Tracking System to track its inventories from the point of transfer to or from a permitted off-premises storage facility. *See* Rules M 901 – Business Records Required and M 309- Medical Marijuana Business: Inventory Tracking System.

K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in 35-14-127,, C.R.S.

L. Adequate Care of Perishable Medical Marijuana-Infused Product. A Medical Marijuana Business must provide adequate refrigeration for perishable Medical Marijuana-Infused Product and shall utilize adequate storage facilities and transport methods.

M. Consumption Prohibited. A Medical Marijuana Business shall not permit the consumption of marijuana or marijuana products on the premises of its permitted off-premises storage facility.

M 900 Series – Business Records

Basis and Purpose – M 905

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b), 12-43.3-202(1)(d), 12-43.3-202(2)(a)(XVII), 12-43.3-202(2)(a)(XVIII), 12-43.3-202(2)(a)(XX), and 12-43.3-307(1)(g), C.R.S. *See also* articles 21, 22, 26 and 28.8 of title 39, C.R.S The purpose of this rule is to clarify the Division's authority to provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee, for the purpose of ensuring accurate and complete filing of tax returns and payment of sales and income taxes required by Title 39 of the Colorado Revised Statutes. Such information sharing is for a purpose authorized by the Medical Code.

M 905 – Department Information Access

A. Department Access to Reports or Other Information. The Division may provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee for the purpose of ensuring accurate and complete filing of tax returns and payment of sales and income taxes required by Title 39 of the Colorado Revised Statutes.

B. Confidentiality. Reports or other information provided to or accessed by taxation divisions within the Department for the purpose of ensuring accurate and complete filing of tax returns and payment of sales and income taxes required by Title 39 of the Colorado Revised Statutes shall be considered part of the Department's investigation pursuant to subsection 39-21-113(4)(a), C.R.S., and the Division shall continue to maintain such records and information in its possession or control as confidential pursuant to subsection 12-43.3-202(1)(d), C.R.S.

M 1000 Series – Labeling, Packaging, and Product Safety

Basis and Purpose – M 1001.5

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(h), 12-43.3-202(2)(a)(VI), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-403(3), 12-43.3-404(5), and 12-43.3-901(4)(b), C.R.S. The State Licensing Authority finds it essential to regulate and establish labeling and secure packaging requirements for Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Infused-Product. The purpose of this rule, and the rules in this series, is to ensure that all Medical Marijuana and Medical Marijuana Infused-Product are sold and delivered to lawful consumers in packaging that is not easily opened by children. Further, the State Licensing Authority believes based on written and oral comments it received through the rulemaking process that prohibiting labels that appeal to or are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. One of the State Licensing Authority's primary goals is to prevent use of Medical Marijuana by children who are not registered Medical Marijuana patients. The State Licensing Authority

has a compelling state interest in the reduction and prevention of accidental marijuana consumption by children. This can be achieved through avoidance of packaging designed to appeal to children and avoidance of use of the word “candy” on packaging, labeling and product. Children generally have a strong attraction to and interest in candy. “Candy” is one of the first words children learn to speak. Children rely upon packaging to deduce a product’s contents. “Candy” is not medicine. This rule is in the interest of the health of the people of Colorado and is necessary for the stringent and comprehensive administration of the Medical Code. The State Licensing Authority is adopting this rule as a narrowly-tailored way to reduce or prevent accidental ingestion of Medical Marijuana or Medical Marijuana-Infused Products by children and others.

M 1001.5 – Labeling and Packaging Requirements: General Applicability

A. Ship Product Ready for Sale. An Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer may package smaller quantities of Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Infused-Product in a Container prior to transport, provided the Containers are placed within a larger package that has an RFID tag and all required labels affixed to it. This larger package of Containers may serve as the Shipping Container. Licensees shall ensure that either each package of Medical Marijuana or Medical Marijuana-Infused Product placed within a Shipping Container has an RFID tag and all required labels affixed to each package, or the Shipping Container itself must have an RFID tag and all required labels affixed to it for the Medical Marijuana or Medical Marijuana-Infused Product contained within the Shipping Container. If the Licensee elects to place the RFID tag and all required labels on the Shipping Container, the Shipping Container shall contain only one package, Harvest Batch, or Production Batch of Medical Marijuana or Medical Marijuana-Infused Product. If a Shipping Container holds multiple packages, each individual package shall be affixed with an RFID tag and all required labels. See Rule M 309 – Inventory Tracking System and Rule M 801 – Transport of Medical Marijuana and Medical Marijuana Infused-Product.

B. Inventory Tracking Compliance.

1. An Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer must package all Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Infused-Product in accordance with all Inventory Tracking System rules and procedures.

C. Packaging May Not Be Designed to Appeal to Children. A Medical Marijuana Business shall not place any content on a Container holding Medical Marijuana, Medical Marijuana Concentrate, or a Medical Marijuana Infused-Product in a manner that specifically targets individuals under the age of 21, including but not limited to, cartoon characters or similar images.

D. Health and Benefit Claims. Labeling text on a Container may not make any false or misleading statements regarding health or physical benefits to the consumer.

E. Font Size. Labeling text on a Container must be no smaller than 1/16 of an inch.

F. Use of English Language. Labeling text on a Container must be clearly written or printed and in the English language.

G. Unobstructed and Conspicuous. Labeling text on a Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to a Container, provided that none of the information required by these rules is completely obstructed.

H. Use of the Word(s) “Candy” and/or “Candies” Prohibited.

1. Licensees shall not use the word(s) “candy” and/or “candies” on the product, packaging or labeling for Medical Marijuana or Medical Marijuana-Infused Product.

2. Notwithstanding the requirements of subparagraph (H)(1), a licensed Medical Marijuana Business whose Identity Statement contains the word(s) “candy” and/or “candies” shall be permitted to place its Identity Statement on Medical Marijuana and/or Medical Marijuana-Infused Product packaging and labeling.

Basis and Purpose – M 1002.5

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(7), 12-43.3-404(5), 12-43.3-404(10), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to ensure that every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer label each package and Container of Medical Marijuana with all of the necessary and relevant information for the receiving Medical Marijuana Business. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques for all Medical Marijuana as this is a public health and safety concern.

M 1002.5 – Packaging and Labeling of Medical Marijuana by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer

A. Packaging of Medical Marijuana by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer. Every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer must ensure that all Medical Marijuana is placed within a sealed package that has no more than ten pounds of Medical Marijuana within it prior to transport or transfer of any Medical Marijuana to another Medical Marijuana Business. The package shall be affixed with an RFID tag in accordance with rule M 1001.5(A).

B. Labeling of Medical Marijuana Packages by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer. Every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer must ensure that a label(s) is affixed to every package holding Medical Marijuana that includes all of the information required by this rule prior to transport or transfer to another Medical Marijuana Business.

1. Required Information. Every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer must ensure the following information is affixed to every package holding Medical Marijuana:

a. The license number of the Optional Premises Cultivation Operation where the Medical Marijuana was grown;

b. The Harvest Batch Number(s) assigned to the Medical Marijuana;

c. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Medical Marijuana prior to its placement in the package; and

d. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Medical Marijuana.

2. Required Potency Statement. For each package of Medical Marijuana , the potency of at least the Medical Marijuana'sTHC and CBD shall be included on a label that is affixed to the package. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration for each cannabinoid listed, from every test conducted on that strain of Medical Marijuana cultivated by the same Optional Premises Cultivation Operation within the last six months.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed. If a Medical Marijuana Testing Facility did not test a Harvest Batch for microbials, mold, mildew, and filth, then the package shall be labeled with the following statement: **"The marijuana contained within this package has not been tested for contaminants."** Except that when an Optional Premises Cultivation Operation has successfully validated its process regarding contaminants pursuant to rule M 1501, then the package instead shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule M 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed. If a Medical Marijuana Testing Facility tested a Harvest Batch for microbials, mold, mildew, and filth, and the required test(s) passed, then the package shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

c. Nothing in this rule permits a Medical Marijuana Business to transfer, wholesale, or sell Medical Marijuana that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule M 1507(B).

C. Labeling of Medical Marijuana Containers by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer. If an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer packages Medical Marijuana within a Container that is then placed within a larger package, each Container must be affixed with a label(s) containing all of the information required by Rule M 1002.5(B), except that the net weight statement required by Rule M 1002.5(B)(1)(c) shall be based upon the weight in the Container and not the larger package or Shipping Container.

Basis and Purpose – M 1003.5

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(7), 12-43.3-404(5), 12-43.3-404(10), 12-43.3-404(11)(b-c), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to ensure that every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer labels each package and Container of Medical Marijuana Concentrate with all of the necessary and relevant information for the receiving Medical Marijuana Business. In addition, this rule

clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques for all Medical Marijuana Concentrate because it is a public health and safety concern.

M 1003.5 – Packaging and Labeling of Medical Marijuana Concentrate by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer

A. Packaging of Medical Marijuana Concentrate by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer. Every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer must ensure that all Medical Marijuana Concentrate is placed within a sealed package that has no more than one pound of Medical Marijuana Concentrate within it prior to transport or transfer to another Medical Marijuana Business. The package shall be affixed with an RFID tag in accordance with rule M 1001.5(A).

B. Labeling Medical Marijuana Concentrate Package by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer. Every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer must ensure that a label(s) is affixed to every package holding Medical Marijuana Concentrate that includes all of the information required by this rule prior to transport or transfer to another Medical Marijuana Business.

1. Required Information. Every Optional Premises Cultivation Operation and Medical Marijuana-Infused Products Manufacturer must ensure the following information is affixed to every package holding Medical Marijuana Concentrate:

    a. The license number(s) of the Optional Premises Cultivation Operation(s) where the Medical Marijuana used to produce the Medical Marijuana Concentrate was grown;

    b. The license number of the Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer that produced the Medical Marijuana Concentrate;

    c. The Production Batch Number assigned to the Medical Marijuana Concentrate contained within the package;

    d. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Medical Marijuana Concentrate prior to its placement in the package;

    e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Medical Marijuana used to produce the Medical Marijuana Concentrate contained within; and

    f. A complete list of solvents and chemicals used to create the Medical Marijuana Concentrate.

2. Required Potency Statement. For each package of Medical Marijuana Concentrate , the potency of at least the Medical Marijuana Concentrate's THC and CBD shall be included on a label that is affixed to the package. The potency shall be expressed in milligrams for each cannabinoid.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed.

i. Solvent-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility did not test a Production Batch of Solvent-Based Medical Marijuana Concentrate for residual solvents, mold, and mildew, then the package shall be labeled with the following statement: **"The Medical Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Medical Marijuana-Infused Products Manufacturer has successfully validated its process regarding contaminants pursuant to rule M 1501, the package instead shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501.**"

ii. Food- and Water-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility did not test a Production Batch of Food- or Water-Based Medical Marijuana Concentrate for microbials, mold, and mildew, then the package shall be labeled with the following statement: **"The Medical Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer has successfully validated its process regarding contaminants pursuant to rule M 1501, then the package instead shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed.

i. Solvent-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility tested a Production Batch of Solvent-Based Medical Marijuana Concentrate for residual solvents, mold, and mildew, and the required test(s) passed, then the package shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

ii. Food- and Water-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility tested a Production Batch for microbials, mold, and mildew, and the required test(s) passed, then the package shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

c. Nothing in this rule permits a Medical Marijuana Business to transfer, wholesale, or sell Medical Marijuana Concentrate that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule M 1507(B).

C. Labeling of Medical Marijuana Concentrate Containers by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer. If an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer packages a Medical Marijuana Concentrate within a Container that is then placed within a larger package, each Container must be affixed with a label(s) containing all of the information required by Rule M 1003.5(B), except that the net weight statement required by Rule M 1003.5(B)(1)(d) shall be based upon the weight in the Container and not the package or Shipping Container.

Basis and Purpose – M 1004.5

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(2)(a)(I-III), 12-43.3-402(7), 12-43.4-404(5), 12-43.4-404(10), 12-43.4-404(11), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to ensure that every Medical Marijuana-Infused Products Manufacturer labels each package and Container holding a Medical Marijuana Infused-Product with all of the necessary and relevant information for the receiving Medical Marijuana Business. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Medical Marijuana Infused-Product because it is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of Senate Bill 15-260. Section 1 of the bill required the State Licensing Authority to establish an acceptable potency variance for correct labeling. The acceptable potency variance has been set at plus or minus 15% to comport with the potency variance mandated by the Retail Code.

Product safety requirements are being adopted to aid in making Medical Marijuana-Infused Products more readily identifiable to the general public as containing Medical Marijuana. While product safety requirements are stated in this rule, nothing in the requirements interferes with a manufacturer's ability to determine standard portions for its products or to provide a mechanism with the product for accurately measuring a standard portion.

M 1004.5 – Packaging and Labeling Requirements of a Medical Marijuana Infused-Product by a Medical Marijuana-Infused Products Manufacturer

A. Packaging of Medical Marijuana Infused-Product by a Medical Marijuana-Infused Products Manufacturer

1. General Standard. Every Medical Marijuana-Infused Products Manufacturer must ensure that each Container holding a Medical Marijuana Infused-Product is placed in a package prior to transport or transfer to another Medical Marijuana Business. The package shall be affixed with an RFID tag in accordance with rule M 1001.5(A).

2. Edible Medical Marijuana Infused-Product.

a. Every Medical Marijuana-Infused Products Manufacturer must ensure that each Edible Medical Marijuana Infused-Product is packaged within a Child-Resistant Container prior to transport or transfer to another Medical Marijuana Business.

b. If the Edible Medical Marijuana-Infused Product contains multiple portions then it must be packaged in a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings

3. Medical Marijuana Infused-Product that is not Edible Medical Marijuana Infused-Product. Every Medical Marijuana-Infused Products Manufacturer must ensure that each Medical Marijuana Infused-Product that is not an Edible Medical Marijuana Infused-Product is individually packaged within a Container prior to transport or transfer to another Medical Marijuana Business.

B. Labeling of Medical Marijuana Infused-Product Containers by a Medical Marijuana-Infused Products Manufacturer. A Medical Marijuana-Infused Products Manufacturer must ensure that a label(s) is affixed to every Container holding a Medical Marijuana Infused-Product that includes all of the information required by this rule prior to transport or transfer to another Medical Marijuana Business.

1. Required Information (General). Every Medical Marijuana-Infused Products Manufacturer must ensure the following information is affixed to every Container holding a Medical Marijuana Infused-Product:

a. The license number(s) of the Optional Premises Cultivation Operation(s) where the Medical Marijuana used to produce the Medical Marijuana Infused-Product was grown;

b. The Production Batch Number(s) of Medical Marijuana Concentrate(s) used in the production of the Medical Marijuana Infused-Product.

c. The license number of the Medical Marijuana-Infused Products Manufacturer that produced the Medical Marijuana Infused-Product.

d. A net weight statement.

e. The Production Batch Number(s) assigned to the Medical Marijuana Infused-Product.

f. A statement about whether the Container is Child-Resistant.

h. The Identity Statement and Standardized Graphic Symbol of the Medical Marijuana-Infused Products Manufacturer that manufactured the Medical Marijuana Infused-Product. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

i. The Universal Symbol, which must be located on the front of the Container and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: “Contains Marijuana. For Medical Use Only. Keep out of the reach of children.”

j. The following warning statements:

i. **“There may be health risks associated with the consumption of this product.”**

ii. **“This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.3-202(2.5)(a)(I)(E), C.R.S.”**

iii. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

iv. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

k. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Medical Marijuana used to produce the Medical Marijuana Infused-Product.

l. A complete list of solvents and chemicals used in the creation of any Medical Marijuana Concentrate that was used to produce the Medical Marijuana Infused-Product.

m. Required Potency Statement. This subsubparagraph (B)(1)(m) of rule M 1004.5 shall become effective October 1, 2017. Each Container holding a Medical Marijuana-Infused Product shall be labeled with the potency of at least the Medical Marijuana-Infused Product's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled either:

i. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

2. Required Information (Edible Medical Marijuana Infused-Product). Every Medical Marijuana-Infused Products Manufacturer must ensure that the following information or statement is affixed to every Container holding an Edible Medical Marijuana Infused-Product:

a. Ingredient List. A list of all ingredients used to manufacture the Edible Medical Marijuana Infused-Product; which shall include a list of any potential allergens contained within.

b. Statement Regarding Refrigeration. If the Edible Medical Marijuana Infused-Product is perishable, a statement that the Edible Medical Marijuana Infused-Product must be refrigerated.

c. Statement of Production Date. The date on which the Edible Medical Marijuana Infused-Product was produced.

d. Statement of Expiration Date. A product expiration date, for perishable Edible Medical Marijuana Infused-Product, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a Container holding an Edible Medical Marijuana Infused-Product, a Licensee shall not alter that date or affix a new label with a later use-by or expiration date.

3. Permissive Information (Edible Medical Marijuana Infused-Product). Every Medical Marijuana-Infused Products Manufacturer may affix a label(s) with the following information to every Container holding an Edible Medical Marijuana Infused-Product:

    a. The Medical Marijuana Infused-Product's compatibility with dietary restrictions.

    b. A nutritional fact panel.

4. Required Potency Statement.

    a. Every Medical Marijuana-Infused Products Manufacturer must ensure that a label is affixed to the Container that includes at least the Medical Marijuana Infused-Product's THC and CBD content.

    b. Nothing in this rule permits a Medical Marijuana Business to transfer, wholesale, or sell Medical Marijuana Infused-Product that has failed potency testing and has not subsequently passed the additional potency testing required by rule R 1507(C).

5. Required Contaminant Testing Statement.

    a. When All Required Contaminant Tests Are Not Performed. If a Medical Marijuana Testing Facility did not test a Production Batch of Medical Marijuana Infused-Product for microbials, mold, and mildew, then the Container shall be labeled with the following statement: **"The Medical Marijuana Infused-Product contained within this package has not been tested for contaminants."** Except that when a Medical Marijuana-Infused Products Manufacturer has successfully validated its process regarding contaminants for the particular Medical Marijuana Infused-Product pursuant to rule M 1501, then the Container instead shall be labeled with the following statement: "**The Medical Marijuana Infused-Product contained within this package complies with the mandatory contaminant testing required by rule M 1501.**"

    b. When All Contaminant Tests Are Performed and Passed. If a Medical Marijuana Testing Facility tested a Production Batch of Medical Marijuana Infused-Product for microbials, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Medical Marijuana Infused-Product contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

    c. Nothing in this rule permits a Medical Marijuana Business to transfer, wholesale, or sell Medical Marijuana Infused-Product that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule M 1507(B).

D. Labeling of Medical Marijuana Infused-Product Shipping Containers or Packages by Medical Marijuana-Infused Products Manufacturer. Prior to transporting or transferring any Medical Marijuana Infused-Product to another Medical Marijuana Business, a Medical Marijuana Manufacturing Products Facility must ensure that a label is affixed to a Shipping Container or package holding Medical Marijuana Infused-Product that includes all of the information required by this rule. A Medical Marijuana-Infused Products

Manufacturer must include the following information on every Shipping Container or package:

1. The number of Containers holding a Medical Marijuana Infused-Product within the Shipping Container or package; and

2. The license number of the Medical Marijuana-Infused Products Manufacturer(s) that produced the Medical Marijuana Infused-Product within the Shipping Container or package.

Basis and Purpose – M 1005

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(2)(a), 12-43.3-402(6), 12-43.3-402(7), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to ensure that the labeling on each Container of Medical Marijuana includes necessary and relevant information for patients, does not include health and physical benefit claims, is easily accessible to patients, and is clear and noticeable. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques for all Medical Marijuana because it is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of Senate Bill 15-260. Section 1 of the bill required the State Licensing Authority to establish an acceptable potency variance for correct labeling. The acceptable potency variance has been set at plus or minus 15% to comport with the potency variance mandated by the Retail Code.

M 1005 – Packaging and Labeling of Medical Marijuana by a Medical Marijuana Center

A. Packaging of Medical Marijuana by a Medical Marijuana Center.

1. A Medical Marijuana Center must ensure that all Medical Marijuana is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Medical Marijuana Center must place the Container within an Exit Package that is Child-Resistant.

2. Except that when a patient provides written documentation signed by his or her physician attesting to the fact that it would be unreasonably difficult for the patient to open packaging that is Child-Resistant:

a. A Medical Marijuana Center shall not be required to package the Medical Marijuana in a Child-Resistant Container for sale to the patient; and

b. A Medical Marijuana Center shall not be required to utilize a Child-Resistant Exit Package for the patient.

c. If the Medical Marijuana is packaged in a Child-Resistant Container, a Medical Marijuana Center may defeat the Medical Marijuana's Child-Resistant packaging on behalf of the patient, so long as the Medical Marijuana remains with the packaging after the Child-Resistant properties have been defeated.

B. Labeling of Medical Marijuana by a Medical Marijuana Center. A Medical Marijuana Center must affix all of the information required by this rule to every Container in which Medical Marijuana is placed no later than at the time of sale to a patient:

1. A Medical Marijuana Center must include the following information on every Container:

a. The license number(s) of the Optional Premises Cultivation Operation(s) where the Medical Marijuana was grown;

b. The license number of the Medical Marijuana Center that sold the Medical Marijuana to the patient;

c. The Identity Statement and Standardized Graphic Symbol of the Medical Marijuana Center that sold the Medical Marijuana to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

d. The Harvest Batch Number(s) assigned to the Medical Marijuana within the Container;

e. The date of sale to the patient;

f. The patient registry number of the purchaser;

g. The net weight, in grams to at least the tenth of a gram, of the Medical Marijuana prior to its placement in the Container;

h. The following warning statements:

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This marijuana's potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.3-202(2.5)(a)(I)(E), C.R.S."**

iii. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

i. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Medical Marijuana.

j. The Universal Symbol, which must be located on the front of the Container and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. For Medical Use Only. Keep out of the reach of children."

2. Required Potency Statement. This subparagraph (B)(2) of rule M 1005 shall be repealed on October 1, 2017. For each Harvest Batch of Medical Marijuana packaged within a Container, the Medical Marijuana Center shall ensure the potency of at least the Medical Marijuana's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration for each cannabinoid listed, from every test conducted on that strain of Medical Marijuana cultivated by the same Optional Premises Cultivation Operation within the last six months.

2.1. Required Potency Statement. This subparagraph (B)(2.1) of rule M 1005 shall become effective on October 1, 2017. For each Harvest Batch of Medical Marijuana packaged within a Container, the Medical Marijuana Center shall ensure the potency of at least the Medical Marijuana's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration for each cannabinoid listed, from every test conducted on that strain of Medical Marijuana cultivated by the same Optional Premises Cultivation Operation within the last six months. The potency shall be labeled either:

a. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

b. Highlighted with a bright color such as yellow.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed. If a Medical Marijuana Testing Facility did not test a Harvest Batch for microbials, mold, mildew, and filth, then a Medical Marijuana Center must ensure that a label is affixed to a Container holding any Medical Marijuana from that Harvest Batch with the following statement: **"The marijuana contained within this package has not been tested for contaminants."** Except that when an Optional Premises Cultivation Operation has successfully validated its process regarding contaminants pursuant to rule M 1501, then the Container instead shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

b. When All Required Contaminant Tests Are Performed and Passed. If a Medical Marijuana Testing Facility tested a Harvest Batch for microbials, mold, mildew, and filth, and all the required test(s) passed, then the Container shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

c. Nothing in this rule permits a Medical Marijuana Business to transfer, wholesale, or sell Medical Marijuana that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule M 1507(B).

Basis and Purpose – M 1006

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-402(2)(a)(I-III), 12-43.4-202(2.5)(a)(I), 12-43.3-402(2)(a), 12-43.3-402(6), 12-43.3-404(5), 12-43.3-404(10), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to ensure that the labeling on each Container holding a Medical Marijuana Infused-Product includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Medical Marijuana Infused-Product because this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of Senate Bill 15-260. Section 1 of the bill required the State

Licensing Authority to establish an acceptable potency variance for correct labeling. The acceptable potency variance has been set at plus or minus 15% to comport with the potency variance mandated by the Retail Code.

M 1006 – Packaging and Labeling of Medical Marijuana Infused-Product by a Medical Marijuana Center

A. Packaging Requirements for a Medical Marijuana Center.

1. Beginning December 1, 2016, a Medical Marijuana Center shall not purchase, take possession of, or sell Medical Marijuana-Infused Product that does not comply with rules M 604 and M 1004.5.

2. A Medical Marijuana Center must ensure that each Medical Marijuana Infused-Product is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Medical Marijuana Center must place the Container within an Exit Package that is Child-Resistant.

3. Except that when a patient provides written documentation signed by his or her physician attesting to the fact that it would be unreasonably difficult for the patient to open packaging that is Child-Resistant:

a. If the Medical Marijuana-Infused Product is packaged in a Child-Resistant Container, a Medical Marijuana Center may defeat the Medical Marijuana-Infused Product's Child-Resistant packaging on behalf of the patient, so long as the Medical Marijuana-Infused Product remains with the packaging after the Child-Resistant properties have been defeated; or

b. If the Medical Marijuana-Infused Product is not packaged in a Child-Resistant Container, a Medical Marijuana Center shall not be required to package the Medical Marijuana-Infused Product in a Child-Resistant Container for sale to the patient; and

c. A Medical Marijuana Center shall not be required to utilize a Child-Resistant Exit Package for the patient.

B. Labeling of Medical Marijuana Infused-Product by a Medical Marijuana Center. Every Medical Marijuana Center must ensure that a label(s) is affixed to every Exit Package at the time of sale to a consumer that includes all of the information required by this rule. If an Exit Package is not required pursuant to subparagraph (A)(2) of this rule M 1006, and the Medical Marijuana Center elects not to provide one, then the Medical Marijuana Center must ensure the labels required by this rule are affixed to each Container of Medical Marijuana Infused-Product no later than at the time of sale to a consumer.

1. Required Information.

a. The license number of the Medical Marijuana Center that sold the Medical Marijuana Infused-Product to the consumer;

b. The Identity Statement and Standardized Graphic Symbol of the Medical Marijuana Center that sold the Medical Marijuana Infused-Product to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement

and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

c. The date of sale to the consumer;

d. The patient registry number of the purchaser;

e. The following warning statements;

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.3-202(2.5)(a)(I)(E), C.R.S."**

iii. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

iv. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

f. The Universal Symbol, which must be located on the front of the Container or Exit Package as appropriate and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. For Medical Use Only. Keep out of the reach of children.".

g. Required Potency Statement. This subsubparagraph (B)(1)(g) of rule M 1006 shall become effective October 1, 2017. Each Container holding a Medical Marijuana-Infused Product shall be labeled with the potency of at least the Medical Marijuana-Infused Product's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled either:

i. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

Basis and Purpose – M 1007

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.4-402(2)(a)(I-III), 12-43.4-402(6), 12-43.4-404(5), 12-43.3-404(10), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to ensure that the labeling on each Container holding a Medical Marijuana Concentrate includes necessary and relevant information for patients, does not include health and physical benefit claims, is easily accessible to patients, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to each Medical Marijuana Concentrate as this is a public health and safety concern.

The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of Senate Bill 15-260. Section 1 of the bill required the State Licensing Authority to establish an acceptable potency variance for correct labeling. The acceptable potency variance has been set at plus or minus 15% to comport with the potency variance mandated by the Retail Code.

M 1007 – Packaging and Labeling of Medical Marijuana Concentrate by a Medical Marijuana Center

A. Packaging of Medical Marijuana Concentrate by an Optional Premises Cultivation Operation.

1. A Medical Marijuana Center must ensure that all Medical Marijuana Concentrate is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Medical Marijuana Center must place the Container within an Exit Package that is Child-Resistant.

2. Except that when a patient provides written documentation signed by his or her physician attesting to the fact that it would be unreasonably difficult for the patient to open packaging that is Child-Resistant:

a. A Medical Marijuana Center shall not be required to package the Medical Marijuana Concentrate in a Child-Resistant Container for sale to the patient; and

b. A Medical Marijuana Center shall not be required to utilize a Child-Resistant Exit Package for the patient.

c. If the Medical Marijuana Concentrate is packaged in a Child-Resistant Container, a Medical Marijuana Center may defeat the Medical Marijuana Concentrate's Child-Resistant packaging on behalf of the patient, so long as the Medical Marijuana Concentrate remains with the packaging after the Child-Resistant properties have been defeated.

B. Labeling of Medical Marijuana Concentrate by Medical Marijuana Centers. Every Medical Marijuana Center must ensure that a label(s) is affixed to every Container holding Medical Marijuana Concentrate that includes all of the information required by this rule no later than at the time of sale to a consumer:

1. Every Medical Marijuana Center must ensure the following information is affixed to every Container holding a Medical Marijuana Concentrate:

a. The license number(s) of the Optional Premises Cultivation Operation(s) where the Medical Marijuana used to produce the Medical Marijuana Concentrate within the Container was grown;

b. The license number of the Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer that produced the Medical Marijuana Concentrate;

c. The Production Batch Number assigned to the Medical Marijuana Concentrate;

d. The license number of the Medical Marijuana Center that sold the Medical Marijuana Infused-Product to the consumer;

e. The net weight, in grams to at least the tenth of a gram, of the Medical Marijuana Concentrate prior to its placement in the Container;

f. The date of sale to the consumer;

g. The patient registry number of the purchaser;

h. The following warning statements:

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.3-202(2.5)(a)(I)(E), C.R.S."**

iv. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

v. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

i. The Universal Symbol, which must be located on the front of the Container and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. For Medical Use Only. Keep out of the reach of children."

j. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Medical Marijuana used to produce the Medical Marijuana Concentrate; and

k. A complete list of solvents and chemicals used to produce the Medical Marijuana Concentrate.

2. Required Potency Statement. This subparagraph (B)(2) of rule M 1007 shall be repealed on October 1, 2017.For each Production Batch of Medical Marijuana Concentrate packaged within a Container, the Medical Marijuana Center shall ensure the potency of at least the Medical Marijuana Concentrate's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed in milligrams for each cannabinoid.

2.1. Required Potency Statement. This subparagraph (B)(2.1) of rule M 1007 shall become effective October 1, 2017. Each Container holding a Medical Marijuana Concentrate shall be labeled with the potency of at least the Medical Marijuana Concentrate's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled either:

a. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

b. Highlighted with a bright color such as yellow.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed.

i. Solvent-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility did not test a Production Batch of Solvent-Based Medical Marijuana Concentrate for residual solvents, mold, and mildew, then the Container shall be labeled with the following statement: **"The Medical Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Medical Marijuana-Infused Products Manufacturer has successfully validated its process regarding contaminants pursuant to rule M 1501, then the Container instead shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501.**"

ii. Food- and Water-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility did not test a Production Batch of Food- or Water-Based Medical Marijuana Concentrate for microbials, mold, and mildew, then the Container shall be labeled with the following statement: **"The Medical Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer has successfully validated its process regarding contaminants pursuant to rule M 1501, then the Container instead shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed.

i. Solvent-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility tested a Production Batch of Solvent-Based Medical Marijuana Concentrate for residual solvents, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

ii. Food- and Water-Based Medical Marijuana Concentrate. If a Medical Marijuana Testing Facility tested a Production Batch for microbials, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Medical Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule M 1501**."

c. Nothing in this rule permits a Medical Marijuana Business to transfer, wholesale, or sell Medical Marijuana Concentrate that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule M 1507(B).

M 1100 Series – Signage and Advertising

M 1101 – General Requirement: False and Misleading Statements

Repealed.

Basis and Purpose – M 1102

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(VI), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clearly delineate that a Medical Marijuana Business is not permitted to make deceptive, false, or misleading statements in Advertising materials or on any product or document provided to a consumer.

M 1102 – Advertising General Requirement: No Deceptive, False or Misleading Statements

A Medical Marijuana Business shall not engage in Advertising that is deceptive, false, or misleading. A Medical Marijuana Business shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a consumer.

Basis and Purpose M 1103

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the definition of the term "minor" as used in the Medical Code and these rules.

M 1103 – The Term "Minor" as Used in the Medical Code and These Rules

The term "minor" as used in the Medical Code and these rules means an individual under the age of 18.

Basis and Purpose – M 1104

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.4-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the restrictions applicable to television Advertising.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising

restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1104 – Advertising: Television

A. Television Defined. As used in this rule, the term "television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

B. Television Advertising. A Medical Marijuana Business shall not utilize television Advertising unless the Medical Marijuana Business has reliable evidence that no more than 30 percent of the audience for the program on which the Advertising is to air is reasonably expected to be under the age of 18.

Basis and Purpose – M 1105

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX),12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the restrictions applicable to radio Advertising.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1105 – Advertising: Radio

A. Radio Defined. As used in this rule, the term "radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the internet.

B. Radio Advertising. A Medical Marijuana Business shall not engage in radio Advertising unless the Medical Marijuana Business has reliable evidence that no more than 30

percent of the audience for the program on which the Advertising is to air is reasonably expected to be under the age of 18.

Basis and Purpose – M 1106

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the restrictions applicable to Advertising in print media.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1106 – Advertising: Print Media

A Medical Marijuana Business shall not engage in Advertising in a print publication unless the Medical Marijuana Business has reliable evidence that no more than 30 percent of the publication's readership is reasonably expected to be under the age of 18.

Basis and Purpose – M 1107

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the restrictions applicable to Advertising on the internet.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making

with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1107 – Advertising: Internet

A Medical Marijuana Business shall not engage in Advertising via the internet unless the Medical Marijuana Business has reliable evidence that no more than 30 percent of the audience for the internet web site is reasonably expected to be under the age of 18. *See also* Rule M 1114 – Pop-Up Advertising.

Basis and Purpose – M 1108

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the restrictions applicable to Advertising in a medium designed to target out-of-state residents.

The operation of Medical Marijuana Businesses in Colorado is permitted solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. Colorado has authorized the regulated growth and sale of Medical Marijuana, and it has done so in the context of a longstanding federal ban on such activities. The State Licensing Authority finds that it is essential to regulate Medical Marijuana in the state of Colorado in a manner that does not negatively impact the ability of other states or the federal government to enforce their drug laws. The State Licensing Authority finds that the below restrictions on Advertising as defined in these Medical Marijuana rules are critical to prevent the diversion of Medical Marijuana outside of the state. The State Licensing Authority will continue to monitor and evaluate the best way to implement the state legislative directive to establish appropriate Advertising restrictions for this evolving industry.

M 1108 – Advertising: Targeting Out-of-State Persons Prohibited

A Medical Marijuana Business shall not engage in Advertising that specifically targets Persons located outside the state of Colorado.

Basis and Purpose – M 1109

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), 12-43.3-402(a)(II)&(III), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

M 1109 – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Medical Marijuana Business may engage in Advertising or utilize signage that asserts its products are safe because they are regulated by the State Licensing Authority.

Basis and Purpose – M 1110

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

M 1110 – Signage and Advertising: No Safety Claims Because Tested by a Medical Marijuana Testing Facility

A Medical Marijuana Business may advertise that its products have been tested by a Medical Marijuana Testing Facility, but shall not engage in Advertising or utilize signage that asserts its products are safe because they are tested by a Medical Marijuana Testing Facility.

Basis and Purpose – M 1111

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1111 – Signage and Advertising: Outdoor Advertising

A. Local Ordinances. In addition to any requirements within these rules, a Medical Marijuana Business shall comply with any applicable local ordinances regulating signs and Advertising.

B. Outdoor Advertising Generally Prohibited. Except as otherwise provided in this rule, it shall be unlawful for any Medical Marijuana Business to engage in Advertising that is visible to members of the public from any street, sidewalk, park or other public place, including Advertising utilizing any of the following media: any billboard or other outdoor general Advertising device; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner.

C. Exception. The prohibitions set forth in this rule shall not apply to any fixed sign that is located on the same zone lot as a Medical Marijuana Business and that exists solely for the purpose of identifying the location of the Medical Marijuana Business and otherwise complies with any applicable local ordinances.

Basis and Purpose – M 1112

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX),12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to prohibit signage and Advertising that has a high likelihood of reaching individuals under the age of 18.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1112 – Signage and Advertising: No Content That Targets Minors

A Medical Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 18, including but not limited to cartoon characters or similar images.

Basis and Purpose – M 1113

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II)(F), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions

that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1113 – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

A Medical Marijuana Business shall not engage in Advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 18 year of age or older and includes a permanent and easy opt-out feature.

Basis and Purpose – M 1114

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), and 12-43.3-202(2.5)(a)(II)(C), C.R.S. The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1114 – Pop-Up Advertising

A Medical Marijuana Business shall not utilize unsolicited pop-up Advertising on the internet.

Basis and Purpose – M 1115

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(II), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clarify the Advertising restrictions applicable to event sponsorship.

The operation of Medical Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Revised Statutes, Title 12, Article 43.3, Sections 101 et seq. The statutorily mandated regulatory scheme governing Medical Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product. Through House Bill 16-1363 passed in 2016, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.3-202(2.5)(a)(II), C.R.S. The Medical Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.3-202(2.5)(a)(II), C.R.S. Previously, rulemaking on the same signage, marketing and advertising and requirements was mandated by the legislative regulatory scheme governing Retail Marijuana Establishments. In that rulemaking process the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. To ensure equal compliance and enforcement across both regulated industries of Medical and Retail Marijuana, the State Licensing Authority is adopting the same standards for rules regulating the signage, marketing and advertising of Medical Marijuana, that were adopted for Retail Marijuana. These rules apply to Advertising as defined in Rule M 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state legislative directive to establish appropriate advertising restrictions for this evolving industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 18 and to prevent underage use of marijuana.

M 1115 – Advertising: Event Sponsorship

> A Medical Marijuana Business may sponsor a charitable, sports, or similar event, but a Medical Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Medical Marijuana Business has reliable evidence that no more than 30 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be under the age of 18.

M 1300 Series – Discipline

Basis and Purpose – M 1302

The statutory authority for this rule is found at subsections 12-43.3-202(1)(a), 12-43.3-202(1)(b)(I), 12-43.3-202(1)(c), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), 12-43.3-202(2)(a)(XX), and 24-4-104(4)(a), and sections 12-43.3-601 and 24-4-105, C.R.S. The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately suspend a license prior to and pending a hearing and final agency action. Summary suspension will be imposed when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, or welfare imperatively requires emergency action. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause.

M 1302 – Summary Suspensions

A. How a Summary Suspension Action is Initiated

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation following a hearing on an Order to Show Cause.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued in accordance with the following procedure:

a. After the Summary Suspension Order is issued, the State Licensing Authority shall promptly issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why the Licensee's license should not be suspended, revoked, restricted, fined or subject to other disciplinary sanction.

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

c. The Order to Show Cause shall be filed with the Department's Hearings Division. The hearing on the allegations set forth in the Order to Show Cause shall be expedited to the extent practicable and will be conducted in accordance with Rule M 1304 – Administrative Hearings.

6. Repealed.

B. Duration of Summary Suspension. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

Basis and Purpose – M 1304

The statutory authority for this rule is found at subsections 12-43.3-202(1)(a), 12-43.3-202(1)(b)(I), 12-43.3-202(1)(c), 12-43.3-202(1)(d), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), and sections 12-43.3-601 and 24-4-105, C.R.S. The purpose of this rule is to establish what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of administrative notices: an Order to Show Cause and a Notice of Grounds for Denial.

M 1304 – Administrative Hearings

A. General Procedures

1. Hearing Location. Hearings will generally be conducted by the Department's Hearings Division. Unless the hearing officer orders a change of location based on good cause, as described in this rule, hearings generally will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Under unusual circumstances where justice, judicial economy and convenience of the parties would be served, hearings may be held in other locations in the state of Colorado.

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

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense.

B. Requesting a Hearing

1. A Denied Applicant that has been served with a Notice of Denial may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request for hearing will not be considered.

2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.

3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

C. When a Responsive Pleading is Required

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

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

rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

D. Hearing Notices

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record.

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

   a. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause will be scheduled and held promptly.

   b. Continuances may be granted for good cause, as described in this rule, shown. A motion for a continuance must be timely.c. For purposes of this rule, good cause may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally

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

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

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

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

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

   c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.

   d. Stipulations. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not unduly prejudice other parties; and (3) it would not necessitate a delay of the hearing.

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

F. Conduct of Hearings

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

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

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

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

   a. Reports and other information that would otherwise be confidential pursuant to Subsection 12-43.3-202(1)(d), C.R.S., may be introduced as exhibits at hearing.

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

5. Court Rules.

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

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

6. Exhibits.

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

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

   c. The Denied Applicant or Respondent shall use letters to mark its exhibits.

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

G. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule M 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision.

H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority, or with conflicts counsel representing the hearing officer or State Licensing Authority, pertaining to any pending matter unless all other parties participate in the communication

or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.

I. Marijuana Enforcement Division Representation. The Division shall be represented by the Colorado Department of Law.

M 1500 Series – Medical Marijuana Testing Program

Basis and Purpose – M 1501

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(IV), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(6), 12-43.3-402(7), 12-43.3-404(4), and 12-43.3-404(10), C.R.S. The purpose of this rule is to protect the public health and safety by establishing the contaminant testing and related process validation portion of the Division's Medical Marijuana sampling and testing program.

M 1501 – Medical Marijuana Testing Program – Contaminant Testing

A. Contaminant Testing Required. Until an Optional Premises Cultivation Operation's and Medical Marijuana-Infused Products Manufacturer's cultivation or production process has been validated under this rule, it shall not wholesale, transfer, or process into a Medical Marijuana Concentrate or Medical Marijuana-Infused Product any Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product unless Samples from the Harvest Batch or Production Batch from which that Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product was derived was tested by a Medical Marijuana Testing Facility for contaminants and passed all contaminant tests required by paragraph C of this rule.

B. Validation of Process – Contaminant Testing

1. Medical Marijuana. An Optional Premises Cultivation Operation's cultivation process shall be deemed valid regarding Contaminants if every Harvest Batch that it produced during at least a six week period but no longer than a 12 week period passed all contaminant tests required by paragraph C of this rule. This must include at least 6 Test Batches that contain Samples from entirely different Harvest Batches.

2. Medical Marijuana Concentrate or Medical Marijuana Infused-Product. An Optional Premises Cultivation Operation's or a Medical Marijuana-Infused Products Manufacturer's production process shall be deemed valid regarding contaminants if every Production Batch that it produced during at least a four week period but no longer than an eight week period passed all contaminant tests required by paragraph C of this rule. This must include at least four Test Batches that contain Samples from entirely different Production Batches.

3. Process Validation is Effective for One Year. Once an Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer has successfully obtained process validation for contaminants, the process validation shall be effective for one year from the date of the last passing test required to satisfy the process validation requirements.

C. Required Contaminant Tests.

1. Microbial Contaminant Testing. Each Harvest Batch of Medical Marijuana and Production Batch of Water- or Food-Based Medical Marijuana Concentrate and Medical Marijuana-Infused Product must be tested for microbial contamination by a Medical Marijuana Testing Facility. The microbial contamination test must include, but need not be limited to, testing to determine the presence of Salmonella sp. and shiga-toxin producing Escherichia coli., and the amount of total yeast and mold.

2. Repealed.

3. Residual Solvent Contaminant Testing. Each Production Batch of Solvent-Based Medical Marijuana Concentrate produced by a Medical Marijuana-Infused Products Manufacturer must be tested for residual solvent contamination by a Medical Marijuana Testing Facility. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, butane, heptanes, benzene*, toluene*, hexane*, and xylenes*. * Note: These solvents are not approved for use. Testing is required for these solvents due to their possible presence in the solvents approved for use per rule M 605.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to an Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer wholesaling, transferring, or processing into a Medical Marijuana Concentrate or Medical Marijuana-Infused Product any Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product from that Harvest Batch or Production Batch. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants or other types of biological contaminants, microbials, molds, metals, or residual solvents.

E. Exemptions

1. Medical Marijuana Concentrate. A Production Batch of Medical Marijuana Concentrate shall be considered exempt from this rule if the Medical Marijuana-Infused Products Manufacturer that produced it does not wholesale or transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Medical Marijuana-Infused Product, except that a Solvent-Based Medical Marijuana Concentrate must still be submitted for residual solvent contaminant testing.

F. Required Re-Validation - Contaminants.

1. Material Change Re-validation. If an Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer makes a Material Change to its cultivation or production process, then it must have the first five Harvest Batches or Production Batches produced using the new standard operating procedures tested for all of the contaminants required by paragraph C of this rule regardless of whether its process has been previously validated regarding contaminants. If any of those tests fail, then the Medical Marijuana Business's process must be re-validated.

a. Pesticide. It shall be considered a Material Change if an Optional Premises Cultivation begins using a new or different Pesticide during its

cultivation process and the first five Harvest Batches produced using the new or different Pesticide must also be tested for Pesticide.

b. Solvents. It shall be considered a Material Change if a Medical Marijuana-Infused Products Manufacturer begins using a new or different solvent or combination of solvents.

c. Notification. An Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer that makes a Material Change must notify the Medical Marijuana Testing Facility that conducts contaminant testing on the first five Harvest Batches or Production Batches produced using the new standard operating procedures.

d. Testing Required Prior to Wholesale, Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this rule, the Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer that produced it may not wholesale, transfer or process into a Medical Marijuana Concentrate or Medical Marijuana-Infused Product any of the Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product from that Harvest Batch or Production Batch.

2. Failed Contaminant Testing Re-Validation. If a Sample the Division requires to be tested fails contaminant testing, the Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer shall follow the procedures in paragraph B of rule M 1507 for any package, Harvest Batch, or Production Batch from which the failed Sample was taken. The Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer shall also submit three additional Test Batches of the Medical Marijuana or Medical Marijuana-Infused Product for contaminant testing by a Medical Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer shall re-validate its process for contaminants.

3. Expiration of Process Validation. An Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer shall be required to re-validate its process once the one year of process validation expires, or the Medical Marijuana Business shall comply with the requirements of paragraph A of this rule M 1501.

G. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – M 1502

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(IV), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(6), 12-43.3-402(7), 12-43.3-404(4), and 12-43.3-404(10), C.R.S. The purpose of this rule is to protect the public health and safety by establishing the mandatory testing portion of the Division's Medical Marijuana sampling and testing program.

M 1502 – Medical Marijuana Testing Program – Mandatory Testing

A. Required Sample Submission. A Medical Marijuana Business may be required by the Division to submit a Sample(s) of Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product it possesses to a Medical Marijuana Testing Facility at any time regardless of whether its process has been validated and without notice.

1. Samples collected pursuant to this rule may be tested for potency or contaminants which may include, but may not be limited to, Pesticide, microbials, molds, metals, residual solvents, biological contaminants, and chemical contaminants.

2. When a Sample(s) is required to be submitted for testing, the Medical Marijuana Business may not sell, wholesale, transfer or process into a Medical Marijuana Concentrate or Medical Marijuana-Infused Product any Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product from the package, Harvest Batch or Production Batch from which the Sample was taken, unless or until it passes all required testing.

B. Methods for Determining Required Testing.

1. Random Testing. The Division may require Samples to be submitted for testing through any one or more of the following processes: random process, risk-based process or other internally developed process, regardless of whether a Medical Marijuana Business's process has been validated.

2. Inspection or Enforcement Tests. The Division may require a Medical Marijuana Business to submit a Sample for testing if the Division has reasonable grounds to believe that:

a. Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product is contaminated or mislabeled;

b. A Medical Marijuana Business is in violation of any product safety, health or sanitary law, rule or regulation; or

c. The results of a test would further an investigation by the Division into a violation of any law, rule or regulation.

3. Beta Testing. The Division may require a Medical Marijuana Business to submit Samples from certain randomly selected Harvest Batches or Production Batches for potency or contaminant testing prior to implementing mandatory testing.

C. Minimum Testing Standards. The testing requirements contained in the M 1500 series are the minimum required testing standards. Medical Marijuana Businesses are responsible for receiving enough testing on any Medical Marijuana, Medical Marijuana Concentrate, and/or Medical Marijuana Infused-Product they produce to ensure the marijuana consumables are safe for human consumption.

D. Additional Sample Types. The Division may also require a Medical Marijuana Business to submit Samples comprised of items other than Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product to be tested for contaminants which may include, but may not be limited to, Pesticide, microbials, molds, metals, residual solvents, biological contaminants, and chemical contaminants. The following is a non-exhaustive list of the types of Samples that may be required to be submitted for contaminant testing:

1. Specific plant(s) or any portion of a plant(s),

2. Any growing medium, water or other substance used in the cultivation process,

3. Any water, solvent or other substance used in the processing of a Medical Marijuana Concentrate,

4. Any ingredient or substance used in the manufacturing of a Medical Marijuana-Infused Product; or

5. Swab of any equipment or surface.

E. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – M 1504

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(IV), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(6), 12-43.3-402(7), 12-43.3-404(4), and 12-43.3-404(10), C.R.S. The purpose of this rule is to protect the public health and safety by establishing sampling procedures and rules for the Division's Medical Marijuana sampling and testing program.

M 1504 – Medical Marijuana Testing Program – Sampling Procedures

A. Collection of Samples

1. Sample Collection. All Samples submitted for testing pursuant to this rule must be collected by Division personnel or in accordance with the Division's sampling policy.

2. Sample Selection. The Division may elect, at its sole direction, to assign Division personnel to collect Samples. A Medical Marijuana Business, its Owners and employees shall not attempt to influence the Samples selected by Division personnel.

3. Adulteration or Alteration Prohibited. A Licensee or its agent shall not adulterate or alter, or attempt to adulterate or alter, any Samples of Medical Marijuana or Medical Marijuana-Infused Product for the purpose of circumventing contaminant testing detection limits or potency testing requirements. The Sample(s) collected and submitted for testing must be representative of the Harvest Batch or Production Batch being tested. A violation of this sub-paragraph (A)(3) shall be considered a license violation affecting public safety.

B. Samples for Test Batches of Medical Marijuana and Medical Marijuana Concentrate. Each Test Batch of Medical Marijuana or Medical Marijuana Concentrate must be comprised of a representative selection of Samples.

1. Minimum Number of Samples. At a minimum, each Test Batch of Medical Marijuana or Medical Marijuana Concentrate must be comprised of at least the following number of separately taken Samples:

a. For Test Batches comprised of Harvest Batches or Production Batches weighing up to 10 pounds, eight separate Samples must be taken and combined into one Test Batch.

b. For Test Batches comprised of Harvest Batches or Production Batches weighing more than 10 pounds but less than 20 pounds, 12 separate Samples must be taken and combined into one Test Batch.

c. For Test Batches comprised of Harvest Batches or Production Batches weighing 20 pounds or more but less than 30 pounds, 15 separate Samples must be taken and combined into one Test Batch.

d. For Test Batches comprised of Harvest Batches or Production Batches weighing 30 pound or more but less than 40 pounds, 18 separate Samples must be taken and combined into one Test Batch.

e. For Test Batches comprised of Harvest Batches or Production Batches weighing 40 pounds or more but less than 100 pounds, 23 separate Samples must be taken and combined into one Test Batch.

f. For Test Batches comprised of Harvest Batches or Production Batches weighing 100 pounds or more, 29 separate Samples must be taken and combined into one Test Batch.

2. Multiple Harvest Batches or Production Batches. If more than one Harvest Batch or Production Batch is combined into a single Test Batch, then that Test Batch must include at least one Sample from each Harvest Batch or Production Batch.

C. Samples for Test Batches of Medical Marijuana-Infused Product.

1. Finished Product. Test Batches of Medical Marijuana-Infused Product must be comprised of finished product that is packaged for sale.

2. Multiple Production Batches. If more than one Production Batch of Medical Marijuana-Infused Product is combined into a single Test Batch, then that Test Batch must include at least one finished product that is packaged for sale from each Production Batch combined into that Test Batch.

D. Medical Marijuana Testing Facility Selection. The Division will generally permit a Medical Marijuana Business to select which Medical Marijuana Testing Facility will test a Sample collected pursuant to this rule. However, the Division may elect, at is sole discretion, to assign a Medical Marijuana Testing Facility to test the Sample.

E. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – M 1507

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(IV), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(6), 12-43.3-402(7), 12-43.3-404(4), and 12-43.3-404(10), C.R.S. The purpose of this rule is to protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for the Division's Medical Marijuana sampling and testing program.

M 1507 – Medical Marijuana Testing Program – Contaminated Product and Failed Test Results

A. Quarantining of Product.

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, package or quantity of Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product is contaminated or presents a risk to public safety, then the Division may require a Medical Marijuana Business to quarantine it until the completion of the Division's investigation, which may include the receipt of any test results.

2. If a Medical Marijuana Business is notified by the Division or a Medical Marijuana Testing Facility that a Test Batch failed a contaminant or potency test, then the Medical Marijuana Business shall quarantine any Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product from any package, Harvest Batch or Production Batch combined into that Test Batch and must follow the procedures established pursuant to paragraphs B and/or C of this rule.

3. Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product that has been quarantined pursuant to this rule must be physically separated from all other inventory and may not be sold, wholesaled, transferred or processed into a Medical Marijuana Concentrate or Medical Marijuana-Infused Product.

B. Failed Contaminant Testing: All Contaminant Testing Except Microbial Testing of Medical Marijuana Flower or Trim. If a Medical Marijuana Business is notified by the Division or a Medical Marijuana Testing Facility that a Test Batch failed contaminant testing, then for each package, Harvest Batch or Production Batch combined into that Test Batch the Medical Marijuana Business must either:

1. Destroy and document the destruction of the package, Harvest Batch or Production Batch that it possesses, See Rule M 307 – Waste Disposal; or

2. Decontaminate the portion of the package, Harvest Batch or Production Batch that it possesses, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the identified contaminant by the same or different Medical Marijuana Testing Facility.

    a. If both new Test Batches pass the required contaminant testing, then any Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product from any package, Harvest Batch or Production Batch included in that Test Batch may be sold, wholesaled, transferred or processed into a Medical Marijuana Concentrate or Medical Marijuana-Infused Product.

    b. If one or both of the Test Batches do not pass contaminant testing, then the Medical Marijuana Business must destroy and document the destruction of the entire portion of the package, Harvest Batch or Production Batch included in that Test Batch that it possesses. See Rule M 307 – Waste Disposal.

B.1. Failed Contaminant Testing: Microbial Testing of Medical Marijuana Flower or Trim. If an Optional Premises Cultivation Operation is notified by the Division or a Medical Marijuana Testing Facility that a Test Batch of Medical Marijuana flower or trim failed microbial testing, then for each package or Harvest Batch combined into that Test Batch the Medical Marijuana Business must either:

1. Destroy and document the destruction of the package or Harvest Batch, See Rule M 307 – Waste Disposal; or

2. The Optional Premises Cultivation Operation may transfer all packages or Harvest Batches associated with the failed Test Batch to a Medical Marijuana-Infused Products Manufacturer for processing the particular Medical Marijuana into a Solvent-Based Medical Marijuana Concentrate.

    a. The Solvent-Based Medical Marijuana Concentrate shall be manufactured entirely from the Medical Marijuana flower or trim that failed microbial testing. No other Medical Marijuana shall be included in the Solvent-Based Medical Marijuana Concentrate manufactured pursuant to subparagraph (B.1)(2) of this rule R 1507.

    b. The Solvent-Based Medical Marijuana Concentrate that was manufactured out of the Medical Marijuana flower or trim that failed microbial testing shall undergo all required testing for contaminants pursuant to rule M 1501 – Medical Marijuana Testing Program – Contaminant Testing, for potency pursuant to rule M 1503 – Medical Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Medical Marijuana Rules or Medical Marijuana Code.

    c. If the Solvent-Based Medical Marijuana Concentrate that was manufactured out of the Medical Marijuana flower or trim that failed microbial testing fails contaminant testing, the Optional Premises Cultivation Operation shall destroy and document the destruction of the entire portion of the Production Batch(es) associated with the Solvent-Based Medical Marijuana Concentrate that failed contaminant testing, See Rule M 307 – Waste Disposal.

C. Failed Potency Testing. If a Medical Marijuana Business is notified by the Division or a Medical Marijuana Testing Facility that a Test Batch of Medical Marijuana-Infused Product failed potency testing, then for the package or Production Batch from which that Test Batch was produced the Medical Marijuana Business must either:

1. Destroy and document the destruction of the entire portion of the package or Production Batch that it possesses, See Rule M 307 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches and have those Test Batches tested for potency by the same or different Medical Marijuana Testing Facility.

    a. If both new Test Batches pass potency testing, then any Medical Marijuana-Infused Product from the Production Batch included in the Test Batch may be sold, wholesaled or transferred.

    b. If one or both of the Test Batches fail potency testing, then the Medical Marijuana-Infused Products Manufacturer must destroy and document the destruction of the entire portion of the package or Production Batch that it possesses. See Rule M 307 – Waste Disposal.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

M 1600 Series – Medical Marijuana Transporters

Basis and Purpose – M 1601

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XVIII.6), 12-43.3-202(2)(a)(XX), and 12-43.3-406, C.R.S. The purpose of this rule is to establish that it is unlawful for a Medical Marijuana Transporter to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

M 1601 – Medical Marijuana Transporter: License Privileges

A. Privileges Granted. A Medical Marijuana Transporter shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Medical Marijuana Transporter may share a location with an identically owned Retail Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Transportation of Medical Marijuana and Medical Marijuana-Infused Product Authorized. A Medical Marijuana Transporter may take transportation and delivery orders, receive, transport, temporarily store, and deliver Medical Marijuana and Medical Marijuana-Infused Product.

D. Authorized Sources of Medical Marijuana and Medical Marijuana-Infused Product. A Medical Marijuana Transporter may only transport and store Medical Marijuana and Medical Marijuana-Infused Product that it received directly from the originating Medical Marijuana Business.

E. Authorized On-Premises Storage. A Medical Marijuana Transporter is authorized to store transported Medical Marijuana and Medical Marijuana-Infused Product on its Licensed Premises or permitted off-premises storage facility. All transported Medical Marijuana and Medical Marijuana-Infused Product must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

Basis and Purpose – M 1602

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XVIII.6), 12-43.3-202(2)(a)(XX), and 12-43.3-406, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Medical Marijuana Transporter.

M 1602 – Medical Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Medical Marijuana Transporter is prohibited from buying, selling, or giving away Medical Marijuana or Medical Marijuana-Infused Product, or from receiving complimentary Medical Marijuana or Medical Marijuana-Infused Product. A Medical Marijuana Transporter shall not place or hold a lien or secured interest on Medical Marijuana or Medical Marijuana-Infused Product.

B. Licensed Premises Required. A Medical Marijuana Transporter shall maintain a Licensed Premises. The Licensed Premises shall be in a local jurisdiction that authorizes the operation of Medical Marijuana Centers. If a Medical Marijuana Transporter Licensed Premises is co-located with a Retail Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a local jurisdiction that authorizes the operation of both Medical Marijuana Centers and Retail Marijuana Stores.

C. Off-Premises Storage Permit. A Medical Marijuana Transporter may maintain one or more permitted off-premises storage facilities. See rule M 802 – Off-Premises Storage of Medical Marijuana and Medical Marijuana-Infused Product: All Medical Marijuana Businesses.

D. Storage Duration. A Medical Marijuana Transporter shall not store Medical Marijuana or Medical Marijuana-Infused Product for longer than 7 days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable 7 day storage duration begins and applies regardless of which of the Medical Marijuana Transporter's premises receives the Medical Marijuana or Medical Marijuana-Infused Product first, ie. the Medical Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities.

E. Control of Medical Marijuana and Medical Marijuana-Infused Product. A Medical Marijuana Transporter is responsible for the Medical Marijuana and Medical Marijuana-Infused Product once it takes control of the Medical Marijuana and Medical Marijuana-Infused Product and until the Medical Marijuana Transporter delivers it to the receiving Medical Marijuana Business. For purposes of this rule, taking control of the Medical Marijuana and Medical Marijuana-Infused Product means removing it from the originating Medical Marijuana Business's Licensed Premises and placing the Medical Marijuana and Medical Marijuana-Infused Product in the transport vehicle.

F. Location of Orders Taken and Delivered. A Medical Marijuana Transporter is permitted to take orders on the Licensed Premises of any Medical Marijuana Business to transport Medical Marijuana and Medical Marijuana-Infused Product. The Medical Marijuana Transporter shall deliver the Medical Marijuana and Medical Marijuana-Infused Product to the Licensed Premises of a licensed Medical Marijuana Business.

G. Consumption Prohibited. A Licensee shall not permit the consumption of marijuana or marijuana product on Licensed Premises or in transport vehicles.

H. A Medical Marijuana Transporter shall receive Medical Marijuana and Medical Marijuana-Infused Product from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee. The Medical Marijuana Transporter shall deliver the Medical Marijuana and Medical Marijuana-Infused Product in the same, unaltered packaging to the final destination Licensee.

I. Opening of Sealed Packages or Containers and Re-Packaging Prohibited. A Medical Marijuana Transporter shall not open sealed packages or Containers of Medical Marijuana or Medical Marijuana-Infused Product. Medical Marijuana Transporters are prohibited from re-packaging Medical Marijuana or Medical Marijuana-Infused Product.

J. Temperature-Controlled Transport Vehicles. A Medical Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Medical Marijuana and Medical Marijuana-Infused Product.

K. Damaged or Refused Product. Any damaged Medical Marijuana or Medical Marijuana-Infused Product that is undeliverable to the final destination Medical Marijuana Business, or any Medical Marijuana or Medical Marijuana-Infused Product that is refused by the final destination Medical Marijuana Business shall be transported back to the originating Medical Marijuana Business.

Basis and Purpose – M 1603

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(h), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XVIII.6), 12-43.3-202(2)(a)(XX), and 12-43.3-406(3) C.R.S. The purpose of this rule is to establish a Medical Marijuana Transporter's obligation to account for and track all Medical Marijuana and Medical Marijuana-Infused Product on the Licensed Premises from the point they are transferred from the originating Medical Marijuana Business to the destination Medical Marijuana Business.

M 1603 – Medical Marijuana Transporter: Inventory Tracking System

A. Minimum Tracking Requirement. A Medical Marijuana Transporter must use the Inventory Tracking System to ensure its transported Medical Marijuana and Medical Marijuana-Infused Product are identified and tracked from the point they are transferred from a Medical Marijuana Business when the Medical Marijuana Transporter takes control of the Medical Marijuana and Medical Marijuana-Infused Product by removing it from the originating Medical Marijuana Business's Licensed Premises and placing the Medical Marijuana and Medical Marijuana-Infused Product in the Medical Marijuana Transporter's transport vehicle, through delivery to the destination Medical Marijuana Business. See also Rule R 309 –Inventory Tracking System. A Medical Marijuana Transporter must have the ability to reconcile its transported Medical Marijuana and Medical Marijuana-Infused Product with the Inventory Tracking System and the associated transaction history and transportation order receipts. See also Rule M 901 – Business Records Required.

1. A Medical Marijuana Transporter is prohibited from accepting any Medical Marijuana or Medical Marijuana-Infused Product from another Medical Marijuana Business without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Medical Marijuana Transporter must immediately input all Medical Marijuana and Medical Marijuana-Infused Product received at its Licensed Premises or off-premises storage facility, accounting for all RFID tags, into the Inventory Tracking System at the time of receiving the Medical Marijuana or Medical Marijuana-Infused Product.

3. A Medical Marijuana Transporter must reconcile transactions to the Inventory Tracking System at the close of business each day.

4. All information on the Inventory Tracking System generated transport manifests must be accurate.

Basis and Purpose – M 1604

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XI), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XVIII.6), and 12-43.3-202(2)(a)(XX), C.R.S., and section 12-43.3-406, C.R.S. It sets forth general standards and basic sanitary requirements for Medical Marijuana Transporters. It covers the physical premises where the products are stored as well as the individuals handling the products. This rule also authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Medical Marijuana Transporter's Licensed Premises. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Medical Marijuana Transporter's refusal to cooperate or pay for the audit. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses and the safety of the public.

M 1604 – Medical Marijuana Transporter: Health and Safety Regulations

A. Local Safety Inspections. A Medical Marijuana Transporter's Licensed Premises may be subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Medical Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. Sanitary Conditions. A Medical Marijuana Transporter shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Marijuana and Medical Marijuana-Infused Product, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Medical Marijuana or Medical Marijuana-Infused Product shall conform to hygienic practices while on duty, including but not limited to:

   a. Maintaining adequate personal cleanliness;

   b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated; and

   c. Refraining from having direct contact with Medical Marijuana or Medical Marijuana-Infused Product if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marijuana or Medical Marijuana-Infused Product are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

6. That there is adequate lighting in all areas where Medical Marijuana or Medical Marijuana-Infused Product are stored, and where equipment or utensils are cleaned;

7. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

9. That toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Medical Marijuana or Medical Marijuana-Infused Product shall be conducted in accordance with adequate sanitation principles;

11. That each employee is provided with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Medical Marijuana or Medical Marijuana-Infused Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

C. Independent Health and Sanitary Audit.

1. State Licensing Authority May Require a Health and Sanitary Audit.

a. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Medical Marijuana Transporter to undergo such an audit. The scope of the audit may include, but need not be limited to, whether the Medical Marijuana Transporter is in compliance with the requirements set forth in this rule and other applicable health, sanitary or food handling laws, rules and regulations.

b. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Medical Marijuana Transporter. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Medical Marijuana Transporter will be responsible for all costs associated with the independent health and sanitary audit.

2. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

a. The Division has reasonable grounds to believe that the Medical Marijuana Transporter is in violation of one or more of the requirements set forth in this rule or other applicable public health or sanitary laws, rules or regulations; or

b. The Division has reasonable grounds to believe that the Medical Marijuana Transporter was the cause or source of contamination of Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana-Infused Product.

3. Compliance Required. A Medical Marijuana Transporter must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this rule.

4. Suspension of Operations.

a. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the public health, safety or welfare imperatively requires emergency action and incorporates such findings into its order, it may order summary suspension of the Medical Marijuana Transporter's license. See Rule M 1302 – Summary Suspensions.

b. Prior to or following the issuance of such an order, the Medical Marijuana Transporter may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

i. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. See Rule M 1302 – Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Medical Marijuana Transporter may continue to care for its stored or transported Medical Marijuana and Medical Marijuana-Infused Product and conduct any necessary internal business operations.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

M 1700 Series – Medical Marijuana Business Operators

Basis and Purpose – M 1701

The statutory authority for this rule is found at subsections 12-43.3-202(1)(a), 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX) and 12-43.3-401(d), C.R.S. The purpose of this rule is to establish that it is unlawful for a Medical Marijuana Business Operator registrant to exercise any privileges other than those granted by the State Licensing Authority and to clarify the registrant privileges.

M 1701 – Medical Marijuana Business Operator: License Privileges

A. Privileges Granted. A Medical Marijuana Business Operator shall only exercise those privileges granted to it by the Medical Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Medical Marijuana Business Operator may exercise those privileges only on behalf of the Medical Marijuana Business(es) it operates. A Medical Marijuana Business shall not contract to have more than one Medical Marijuana Business Operator providing services to the Medical Marijuana Business at any given time.

B. Licensed Premises of the Medical Marijuana Business(s) Operated. A separate License is required for each specific Medical Marijuana Business Operator, and each such licensed Medical Marijuana Business Operator may operate one or more other Medical Marijuana Business(es). A Medical Marijuana Business Operator shall not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Medical Marijuana Business Operator at the Licensed Premises of the Medical Marijuana Business(es) it operates.

C. Entities Eligible to Hold Medical Marijuana Business Operator License. A Medical Marijuana Business Operator License may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership or sole proprietorship.

D. Separate Place of Business. A Medical Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Medical Marijuana Business(es) it operates. A Medical Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Medical Marijuana Businesses, except as set forth in Rules M 1702 and 1704. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Medical Marijuana or Medical Marijuana-Infused Product is prohibited at a Medical Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Medical Marijuana Business Operator and each of its Direct Beneficial Interest Owners required to hold an Associated Key License, as well as the agents and employees of the Medical Marijuana Business Operator, shall be agents of the Medical Marijuana Business(es) the Medical Marijuana Business Operator is contracted to operate, when engaged in activities related, directly or indirectly, to the operation of such Medical Marijuana Business(es), including for purposes of taking administrative action against the Medical Marijuana Business being operated. *See* § 12-43.4-601(1), C.R.S. Similarly, a Medical Marijuana Business Operator and its Direct Beneficial Interest Owners required to hold an Associated Key License, as well as the officers, agents and employees of the Medical Marijuana Business Operator, may be disciplined for violations committed by the Direct Beneficial Interest Owners, agents or employees of the Medical Marijuana Business acting under their direction or control. A Medical Marijuana Business Operator may also be disciplined for violations not directly related to a Medical Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules and Regulations. A Medical Marijuana Business Operator, and each of its Direct Beneficial Interest Owners, agents and employees engaged, directly or indirectly, in the operation of the Medical Marijuana Business(es) it operates, shall comply with all state and local laws, ordinances, rules and regulations applicable to the Medical Marijuana Business(es) being operated.

Basis and Purpose – M 1702

The statutory authority for this rule is found at subsections 12-43.3-202(1)(a), 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX) and 12-43.3-401(d), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Business Operator.

M 1702 – Medical Marijuana Business Operators: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is a Direct Beneficial Interest Owner or an Indirect Beneficial Interest Owner of a Medical Marijuana Business Operator shall not be a Direct Beneficial Interest Owner or Indirect Beneficial Interest Owner of, or otherwise have a direct or indirect financial interest in, a Medical Marijuana Business operated by the Medical Marijuana Business Operator. Except that such Person shall have the right to compensation for services provided in accordance with these rules.

B. Sale of Marijuana Prohibited. A Medical Marijuana Business Operator is prohibited from selling, distributing, or transferring Medical Marijuana or Medical Marijuana-Infused Product to another Medical Marijuana Business or a consumer, except when acting as an agent of a Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

C. Consumption Prohibited. A Medical Marijuana Business Operator, and its Direct Beneficial Interest Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Medical Marijuana Business Operator, and any of its Direct Beneficial Interest Owners, agents or employees engaged in the operation of the Medical Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Medical Marijuana Business(es) it operates, in accordance with all requirements, limitations and prohibitions applicable to the Medical Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Medical Marijuana Business(es) Operated. In operating any other Medical Marijuana Business(es), a Medical Marijuana Business Operator, and its Direct Beneficial Interest Owners, agents and employees, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Medical Marijuana Business(es) being operated, under state and local laws, ordinances, rules and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Medical Marijuana Business may grant access to its Inventory Tracking System account to the Direct Beneficial Interest Owners who are required to hold Associated Key Licenses, as well as the licensed agents and employees of a Medical Marijuana Business Operator having duties related to Inventory Tracking System activities of the Medical Marijuana Business(s) being operated.

1. The Direct Beneficial Interest Owners, agents and employees of a Medical Marijuana Business Operator granted access to a Medical Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Direct Beneficial Interest Owner of a Medical Marijuana Business being operated by a Medical Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Medical Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Medical Marijuana Business Operator's Direct Beneficial Interest Owners, agents and employees:

    a. When its contract with the Medical Marijuana Business Operator expires by its terms;

    b. When its contract with the Medical Marijuana Business Operator is terminated by any party; or

    c. When it is notified that the License of the Medical Marijuana Business Operator, or a specific Direct Beneficial Interest Owner, agent or employee of the Medical Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Medical Marijuana Businesses. A Medical Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Medical Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Medical Marijuana Business it operates for any purpose not authorized by the Medical Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Medical Marijuana Business to promote the interests of the Medical Marijuana Business Operator or its Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners, agents or employees, or any Person other than the Medical Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Medical Marijuana Business and a Medical Marijuana Business Operator:

1. Must acknowledge that the Medical Marijuana Business Operator, and its Direct Beneficial Interest Owners, agents and employees who are engaged, directly or indirectly, in operating the Medical Marijuana Business, are agents of the Medical Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Medical Marijuana Business Operator to receive direct remuneration from the Medical Marijuana Business, including a portion of the profits of the Medical Marijuana Business being operated, subject to the following limitations:

    a. The portion of the profits to be paid to the Medical Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Medical Marijuana Business being operated;

b. The Medical Marijuana Business Operator, and any Person associated with the Medical Marijuana Business Operator, shall not be granted, and may not accept:

i. a security interest in the Medical Marijuana Business being operated, or in any assets of the Medical Marijuana Business;

ii. an ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Medical Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Medical Marijuana Business Operator, and any person associated with the Medical Marijuana Business Operator, shall not guarantee the Medical Marijuana Business's debts or production levels.

3. Shall permit the Medical Marijuana Business being operated to terminate the contract with the Medical Marijuana Business Operator at any time, with or without cause;

4. Shall be contingent on approval by the Division; and

5. Shall not be materially amended without advance written approval from the Division.

I. A Medical Marijuana Business Operator may engage in dual operation of a Medical Marijuana Business and a Retail Marijuana Establishment at a single location, to the extent the Medical Marijuana Business being operated is permitted to do so pursuant to subsection 12-43.4-401(2)(a), C.R.S., and the Medical Marijuana Business Operator shall comply with the rules promulgated pursuant to the Medical Code and the Retail Code, including the requirement of obtaining a valid license as a Retail Marijuana Establishment Operator.

Basis and Purpose – M 1703

The statutory authority for this rule is found at subsections, 12-43.3-202(1)(a), 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX) and 12-43.3-401(d), C.R.S.. The purpose of this rule is to establish occupational license requirements for the Medical Marijuana Business Operator's Direct Beneficial Interest Owners, agents and employees, including those directly or indirectly engaged in the operation of other Medical Marijuana Business(es).

M 1703 – Medical Marijuana Business Operators: Occupational Licenses for Personnel

A. Occupational Licenses Required. All natural persons who are Direct Beneficial Interest Owners, and all natural persons who are agents and employees, of a Medical Marijuana Business Operator that are actively engaged, directly or indirectly, in the operation of one or more other Medical Marijuana Business(es),

including but not limited to all such persons who will come into contact with Medical Marijuana or Medical Marijuana-Infused Product, who will have to access Limited Access Areas, or who will have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated as part of their duties, must have a valid Occupational License.

1. Associated Key Licenses. All natural persons who are Direct Beneficial Interest Owners in a Medical Marijuana Business Operator must have a valid Associated Key License, associated with the Medical Marijuana Business Operator License. Such an Associated Key License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

2. Key Licenses. All other natural persons who are agents or employees of a Medical Marijuana Business Operator that are actively engaged, directly or indirectly, in the operation of other Medical Marijuana Businesses, must hold a Key License. The Key License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

B. Occupational Licenses Not Required. Occupational Licenses are not required for Indirect Beneficial Interest Owners of a Medical Marijuana Business Operator, Qualified Limited Passive Investors who are Direct Beneficial Interest Owners of a Medical Marijuana Business Operator, or for natural persons who will not come into contact with Medical Marijuana or Medical Marijuana-Infused Product, will not have access to Limited Access Area(s) of the Medical Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated.

C. Designation of the Manager of a Medical Marijuana Business Operated by a Medical Marijuana Business Operator. If a Medical Marijuana Business Operator is contracted to manage the overall operations of a Medical Marijuana Business's Licensed Premises, the Medical Marijuana Business shall designate a separate and distinct manager on the Licensed Premises who is an officer, agent or employee of the Medical Marijuana Business Operator, which shall be a natural person with a valid Associated Key License or Key License, as set forth in paragraph A of this rule, and the Medical Marijuana Business shall comply with the reporting provisions of subsection 12-43.4-309(11), C.R.S.

Basis and Purpose – M 1704

The statutory authority for this rule is found at subsections 12-43.3-202(1)(a), 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX) and 12-43.3-401(d), C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Business Operators.

M 1704 – Medical Marijuana Business Operators: Business Records Required

A. General Requirement. A Medical Marijuana Business Operator must maintain all required business records as set forth in Rule R 901 - Business Records Required, except that:

1. A Medical Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Medical Marijuana Business Operator will not come into contact with Medical Marijuana or Medical Marijuana-Infused Product at its separate place of business; and

2. A Medical Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Medical Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator shall be maintained at the Licensed Premises of such Medical Marijuana Business(es).

B. All records required to be maintained shall be maintained at the Medical Marijuana Business Operator's separate place of business, and not at the Licensed Premises of the Medical Marijuana Business(es) it operates.

STATEMENT OF ADOPTION

To: Jim Burack, Director, Marijuana Enforcement Division

From: Barbara J. Brohl, Executive Director and State Licensing Authority of the Colorado Department of Revenue

Re: Statement of Adoption

Revised Medical Marijuana Rules, 1 CCR 212-1
Revised Retail Marijuana Rules, 1 CCR 212-2

Pursuant to the state Administrative Procedure Act, Title 24, Article 4, of the Colorado Revised Statutes, I, Barbara J. Brohl, Executive Director of the Colorado Department of Revenue and State Licensing Authority, promulgate the following rules:

Permanent Rules, Medical Marijuana, 1 CCR 212-1

Secretary of State Filing Tracking Number 2016-00342

M 100 Series – General Applicability

M 103 (Revised) – Definitions

M 200 Series – Licensing and Interests

M 201(Renamed & Revised) – Application Process

M 201.5 (Repealed) – Complete Applications Required for Permitted Economic Interests: Medical Marijuana Businesses

M 202 (Repealed) – Process for Issuing a New License: Medical Marijuana Businesses

M 202.1 (New) – Applications, Agreements, Contracts and Certifications Required for Indirect Beneficial Interest Owners: Medical Marijuana Businesses

M 202.5 (Repealed) – Process for Obtaining a Permitted Economic Interest: Medical Marijuana Businesses

M 203 (Revised) – Process for Renewing a License: Medical Marijuana Businesses

M 204 (Renamed & Revised) – Ownership Interests of a License: Medical Marijuana Businesses

M 204.5 (New) – Disclosure, Approval and Review of Business Interests

M 205 (Renamed & Revised) – Transfer of Ownership and Changes in Business Structure: Medical Marijuana Businesses

M 206 (Revised) – Changing Location of the Licensed Premises: Medical Marijuana Businesses

M 211 (Revised) – Conversion - Medical Marijuana Business to Retail Marijuana Establishment

M 230 (Repealed) – Complete Applications Required: Individuals

M 231 (Renamed & Revised) – Qualifications for Licensure and Residency

M 231.1 (New) – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners

M 231.2 (New) – Qualifications for Indirect Beneficial Interest Owners and Qualified Limited Passive Investors

M 231.5 (Repealed) – Qualifications for Permitted Economic Interests: Individuals

M 232 (Renamed & Revised) – Factors Considered When Determining Residency and Citizenship: Individuals

M 233 (Revised) – Medical Code or Retail Code Occupational Licenses Required

M 251 (Revised) – Application Denial and Voluntary Withdrawal: All Licensees

M 252 (Renamed & Revised) – Length of License: All Licensees Except Retail Marijuana Transporters and Occupational Licenses

M 300 Series – The Licensed Premises

M 301 (Revised) – Limited Access Areas

M 302 (Revised) – Possession of Licensed Premises

M 304 (Revised) – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

M 308 (Renamed & Revised) – Selling and Serving Medical Marijuana and Medical Marijuana-Infused Product: Hours of Operation

M 400 Series – Medical Marijuana Centers

M 401 (Revised) – Medical Marijuana Center: License Privileges

M 403 (Revised) – Medical Marijuana Sales: General Limitations or Prohibited Acts

M 406 (Revised) – Medical Marijuana Center: Inventory Tracking System

M 500 Series – Medical Marijuana Optional Premises Cultivation Operation: License Privileges

M 501 (Revised) – Medical Marijuana Optional Premises Cultivation Operation: License Privileges

M 502 (Revised) – Medical Marijuana Optional Premises Cultivation Operation: General Limitations or Prohibited Acts

M 503 (Revised) – Medical Marijuana Optional Premises Cultivation Operation: Inventory Tracking System

M 506 (Revised) – Optional Premises Cultivation Operation: Medical Marijuana Concentrate Production

M 600 Series – Medical Marijuana-Infused Products Manufacturers

M 601 (Revised) – Medical Marijuana-Infused Products Manufacturer: License Privileges

M 602 (Revised) – Medical Marijuana-Infused Products Manufacturer: General Limitations or Prohibited Acts

M 603 (Revised) – Medical Marijuana-Infused Products Manufacturer: Inventory Tracking System

M 604 (Revised) – Medical Marijuana-Infused Products Manufacturer: Health and Safety Regulations

M 700 Series – Medical Marijuana Testing Facilities

M 701.5 (Revised) – Medical Marijuana Testing Facilities: License Privileges

M 702 (Revised) – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

M 703 (Revised) – Medical Marijuana Testing Facilities: Certification Requirements

M 704 (Revised) – Medical Marijuana Testing Facilities: Personnel

M 712 (Revised) – Medical Marijuana Testing Facilities: Sampling and Testing Program

M 800 Series – Transport and Storage

M 801 (Renamed & Revised) – Transport of Medical Marijuana, Medical Marijuana Vegetative Plants, and Medical Marijuana-Infused Product: All Medical Marijuana Businesses

M 802 (Renamed & Revised) – Off-Premises Storage of Medical Marijuana and Medical Marijuana-Infused Product: All Medical Marijuana Businesses

M 900 Series – Business Records

M 905 (New) – Department Information Access

M 1000 Series – Labeling, Packaging, and Product Safety

M 1001.5 (Revised) – Labeling and Packaging Requirements: General Applicability

M 1002.5 (Revised) – Packaging and Labeling of Medical Marijuana by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer

M 1003.5 (Revised) – Packaging and Labeling of Medical Marijuana Concentrate by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer

M 1004.5 (Revised) – Packaging and Labeling Requirements of a Medical Marijuana Infused-Product by a Medical Marijuana-Infused Products Manufacturer

M 1005 (Revised) – Packaging and Labeling of Medical Marijuana by a Medical Marijuana Center

M 1006 (Revised) – Packaging and Labeling of Medical Marijuana Infused-Product by a Medical Marijuana Center

M 1007 (Revised) – Packaging and Labeling of Medical Marijuana Concentrate by a Medical Marijuana Center

M 1100 Series – Signage and Advertising

M 1101 (Repealed) – General Requirement: False and Misleading Statements

M 1102 (New) – Advertising General Requirement: No Deceptive, False or Misleading Statement

M 1103 (New) – The Term "Minor" as Used in the Medical Code and These Rules

M 1104 (New) – Advertising: Television

M 1105 (New) – Advertising: Radio

M 1106 (New) – Advertising: Print Media

M 1107 (New) – Advertising: Internet

M 1108 (New) – Advertising: Targeting Out-of-State Persons Prohibited

M 1109 (New) – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

M 1110 (New) – Signage and Advertising: No Safety Claims Because Tested by a Medical Marijuana Testing Facility

M 1111 (New) – Signage and Advertising: Outdoor Advertising

M 1112 (New) – Signage and Advertising: No Content That Targets Minors

M 1113 (New) – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

M 1114 (New) – Pop-Up Advertising

M 1115 (New) – Advertising: Event Sponsorship

M 1300 Series – Discipline

M 1302 (Renamed & Revised) – Summary Suspensions

M 1304 (Revised) – Administrative Hearings

M 1500 Series – Medical Marijuana Testing Program

M 1501 (Revised) – Medical Marijuana Testing Program – Contaminant Testing

M 1502 (Revised) – Medical Marijuana Testing Program – Mandatory Testing

M 1504 (Revised) – Medical Marijuana Testing Program – Sampling Procedures

M 1507 (Revised) – Medical Marijuana Testing Program – Contaminated Product and Failed Test Results

M 1600 Series – Medical Marijuana Transporters

M 1601 (New) – Medical Marijuana Transporter: License Privileges

M 1602 (New) – Medical Marijuana Transporter: General Limitations or Prohibited Acts

M 1603 (New) – Medical Marijuana Transporter: Inventory Tracking System

M 1604 (New) – Medical Marijuana Transporter: Health and Safety Regulations

M 1700 Series – Medical Marijuana Business Operators

M 1701 (New) – Medical Marijuana Business Operator: License Privileges

M 1702 (New) – Medical Marijuana Business Operators: General Limitations or Prohibited Acts

M 1703 (New) – Medical Marijuana Business Operators: Occupational Licenses for Personnel

M 1704 (New) – Medical Marijuana Business Operators: Business Records Required

Permanent Rules, Retail Marijuana, 1 CCR 212-2

Secretary of State Filing Tracking Number 2016-00343

R 100 Series – General Applicability

R 103 (Revised) – Definitions

R 200 Series – Licensing and Interests

Rule R 207 (Revised) – Schedule of Application Fees: Retail Marijuana Establishments

R 201 (Renamed & Revised) – Application Process

R 201.5 (Repealed) – Complete Applications Required for Permitted Economic Interests: Retail Marijuana Establishments

R 202 (Repealed) – Process for Issuing a New License: Retail Marijuana Establishments

R 202.1 (New) – Applications, Agreements, Contracts and Certifications Required for Indirect Beneficial Interest Owners: Retail Marijuana Establishments

R 202.5 (Repealed) – Process for Obtaining a Permitted Economic Interest: Retail Marijuana Establishments

R 203 (Revised) – Process for Renewing a License: Retail Marijuana Establishments

R 204 (Renamed & Revised) – Ownership Interests of a License: Retail Marijuana Establishments

R 204.5 (New) – Disclosure, Approval and Review of Business Interests

R 205 (Revised) – Transfer of Ownership and Changes in Business Structure: Retail Marijuana Establishments

R 206 (Revised) – Changing Location of Licensed Premises: Retail Marijuana Establishments

R 211 (Revised) – Conversion - Medical Marijuana Business to Retail Marijuana Establishment Pursuant to 12-43.4-104(1)(a)(I), C.R.S.

R 212 (Revised) – New Applicant Retail Marijuana Cultivation Facilities Licensed Pursuant To 12-43.4-104(1)(b)(II), C.R.S.

R 230 (Repealed) – Complete Applications Required: Individuals

R 231 (Renamed & Revised) – Qualifications for Licensure and Residency

R 231.1 (New) – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners

R 231.2 (New) – Qualifications for Indirect Beneficial Interest Owners and Qualified Limited Passive Investors

R 231.5 (Repealed) – Qualifications for Permitted Economic Interests: Individuals

R 232 (Renamed & Revised) – Factors Considered When Determining Residency and Citizenship: Individuals

R 233 (Revised) – Retail Code or Medical Code Occupational Licenses Required

R 251 (Revised) – Application Denial and Voluntary Withdrawal: All Licensees

R 252 (Renamed & Revised) – License Must Be Renewed Each Year: All Licensees Except Retail Marijuana Transporters and Occupational Licenses

R 300 Series – The Licensed Premises

R 301 (Revised) – Limited Access Areas

R 302 (Revised) – Possession of Licensed Premises

R 304 (Revised) – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

R 308 (Renamed & Revised) – Selling and Serving, Retail Marijuana and Retail Marijuana Product - Hours of Operation

R 400 Series – Retail Marijuana Stores

R 401 (Revised) – Retail Marijuana Store: License Privileges

R 402 (Revised) – Retail Marijuana Sales: General Limitations or Prohibited Acts

R 404 (Revised) – Acceptable Forms of Identification for Retail Sales

R 405 (Revised) – Retail Marijuana Store: Inventory Tracking System

R 500 Series – Retail Marijuana Cultivation Facilities

R 501 (Revised) – Retail Marijuana Cultivation Facility: License Privileges

R 502 (Revised) – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

R 503 (Revised) – Retail Marijuana Cultivation Facility: Inventory Tracking System

R 505 (Revised) – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

R 600 Series – Retail Marijuana Products Manufacturing Facilities

R 601 (Revised) – Retail Marijuana Products Manufacturing Facilities: License Privileges

R 602 (Revised) – Retail Marijuana Products Manufacturing Facility: General Limitations or Prohibited Acts

R 603 (Revised) – Retail Marijuana Products Manufacturing Facility: Inventory Tracking System

R 604 (Revised) – Retail Marijuana Products Manufacturing Facility: Health and Safety Regulations

R 700 Series – Retail Marijuana Testing Facilities

R 701 (Revised) – Retail Marijuana Testing Facilities: License Privileges

R 702 (Revised) – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

R 703 (Revised) – Retail Marijuana Testing Facilities: Certification Requirements

R 704 (Revised) – Retail Marijuana Testing Facilities: Personnel

R 712 (Revised) – Retail Marijuana Testing Facilities: Sampling and Testing Program

R 800 Series – Transport and Storage

R 801 (Renamed & Revised) – Transport of Retail Marijuana, Retail Marijuana Vegetative Plants, and Retail Marijuana Product: All Retail Marijuana Establishments

R 802 (Renamed & Revised) – Off-Premises Storage of Retail Marijuana and Retail Marijuana Product: All Retail Marijuana Establishments

R 900 Series – Business Records

R 905 (New) – Department Information Access

R 1000 Series – Labeling, Packaging, and Product Safety

R 1001 (Revised) – Labeling and Packaging Requirements: General Applicability

R 1002.5 (Revised) – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

R 1003.5 (Revised) – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility.

R 1004 (Revised) – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

R 1005.5 (Revised) – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Store

R 1006 (Revised) – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

R 1007.5 (Revised) – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Store

R 1300 Series – Discipline

R 1302 (Renamed & Revised) – Summary Suspensions

R 1304 (Revised) – Administrative Hearings

R 1500 Series – Retail Marijuana Testing Program

R 1501 (Revised) – Retail Marijuana Testing Program – Contaminant Testing

R 1502 (Revised) – Retail Marijuana Testing Program – Mandatory Testing

R 1504 (Revised) – Retail Marijuana Testing Program – Sampling Procedures

R 1507 (Revised) – Retail Marijuana Testing Program – Contaminated Product and Failed Test Results

R 1600 Series – Retail Marijuana Transporters

R 1601 (New) – Retail Marijuana Transporter: License Privileges

R 1602 (New) – Retail Marijuana Transporter: General Limitations or Prohibited Acts

R 1603 (New) – Retail Marijuana Transporter: Inventory Tracking System

R 1604 (New) – Retail Marijuana Transporter: Health and Safety Regulations

R 1700 Series – Retail Marijuana Establishment Operators

R 1701 (New) – Retail Marijuana Establishment Operator: License Privileges

R 1702 (New) – Retail Marijuana Establishment Operators: General Limitations or Prohibited Acts

R 1703 (New) – Retail Marijuana Establishment Operators: Occupational Licenses for Personnel

R 1704 (New) – Retail Marijuana Establishment Operators: Business Records Required

Signed this 13th day of October, 2016.

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Tracking number: 2016-00342

Opinion of the Attorney General rendered in connection with the rules adopted by the

Marijuana Enforcement Division

on 10/13/2016

1 CCR 212-1

MEDICAL MARIJUANA RULES

The above-referenced rules were submitted to this office on 10/13/2016 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 28, 2016 13:25:42

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Marijuana Enforcement Division

CCR number

1 CCR 212-2

Rule title

1 CCR 212-2 RETAIL MARIJUANA CODE 1 - eff 01/01/2017

Effective date

01/01/2017

R 100 Series – General Applicability

Basis and Purpose – R 103

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(b)(IX), C.R.S., section 12-43.4-103, and all of the Retail Code. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and not intended to be a defined term, it is not capitalized.

R 103 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 12-43.4-103, C.R.S., shall apply to all rules promulgated pursuant to the Retail Code, unless the context requires otherwise:

"Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to induce directly or indirectly any Person to patronize a particular Retail Marijuana Establishment, or to purchase particular Retail Marijuana or a Retail Marijuana Product. "Advertising" includes marketing, but does not include packaging and labeling. "Advertising" proposes a commercial transaction or otherwise constitutes commercial speech.

"Additive" means any substance added to Retail Marijuana Product that is not a common baking or cooking item.

"Affiliated Interest" means any Business Interest related to a Retail Marijuana Establishment that does not rise to the level of a Financial Interest in a Retail Marijuana Establishment license. An Affiliated Interest may include, but shall not be limited to, an Indirect Beneficial Interest Owner that is not a Financial Interest, a lease agreement, secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, sale, transportation, or testing of Retail Marijuana or Retail Marijuana Products. Except as otherwise provided by these rules, an Affiliated Interest holder shall neither exercise control of nor be positioned so as to enable the exercise of control over the Retail Marijuana Establishment or its operations. A Retail Marijuana Establishment shall report each of its Affiliated Interests to the Division with each application for initial licensure, renewal, change of ownership or change of corporate structure.

"Agreement" means any unsecured convertible debt option, option agreement, warrant, or at the Division's discretion, other document that establishes a right for a person to obtain a Permitted Economic Interest that might convert to an ownership interest in a Retail Marijuana Establishment or Medical Marijuana Business.

"Alarm Installation Company" means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

"Applicant" means a Person that has submitted an application for licensure or registration, or for renewal of licensure or registration, pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Associated Key License" means an Occupational License for an individual who is a Direct Beneficial Interest Owner of the Retail Marijuana Establishment, other than a Qualified Limited Passive Investor. Each shareholder, officer, director, member, or partner of a Closely Held Business Entity that is a Direct Beneficial Interest Owner must hold an Associated Key License.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Retail Marijuana.

"Business Interest" means any Person that holds a Financial Interest or an Affiliated Interest in a Retail Marijuana Establishment.

"Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995). Note that this rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulation, which is available to the public.

b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material;

c. Resealable for any product intended for more than a single use or containing multiple servings.

"Closely Held Business Entity" means an "entity" as defined in section 7-90-102, C.R.S., that has no more than fifteen shareholders, officers, directors, members, partners or owners, each of whom are natural persons, each of whom holds an Associated Key License, and each of whom is a United States citizen prior to the date of application. There must be no publicly traded market for interests in the entity. A Closely Held Business Entity and each of the natural persons who are its shareholders, officers, directors, members, partners or owners, are Direct Beneficial Interest Owners. A Closely Held Business Entity is an associated business of the Retail Marijuana Establishment for which it is a Direct Beneficial Interest Owner.

"Commercially Reasonable Royalty" means a right to compensation in the form of a royalty payment for the use of product-specific intellectual property. A Commercially Reasonable Royalty must be limited to a specific product or line of products and provide compensation to the Commercially Reasonable Royalty Holder as a percentage of gross revenue or gross profit generated from sales of the particular product or line of products. The royalty payment must be at a reasonable percentage rate. To determine whether the percentage rate is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:

a. The percentage of royalties received by the recipient for the licensing of the intellectual property.

b. The rates paid by the Licensee for the use of other intellectual property.

c. The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the manufactured product may be sold.

d. The licensor's established policy and marketing program to maintain his intellectual property monopoly by not licensing

others or by granting licenses under special conditions designed to preserve that monopoly.

e. The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.

f. The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.

g. The duration of the term of the license for use of the intellectual property.

h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.

i. The utility and advantages of the intellectual property over products without the intellectual property.

j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.

k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.

l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.

"Commercially Reasonable Royalty Interest Holder" means a Person that receives a Commercially Reasonable Royalty in exchange for a Licensee's use of the Commercially Reasonable Royalty Interest Holder's intellectual property. A Commercially Reasonable Royalty Interest Holder is an Indirect Beneficial Interest Owner.

"Container" means the sealed package in which Retail Marijuana or a Retail Marijuana Product is placed for sale to a consumer and that has been labeled according to the requirements set forth in Rules R 1002 *et. seq.*

"Denied Applicant" means any Person whose application for licensure pursuant to the Retail Code has been denied.

"Department" means the Colorado Department of Revenue.

"Direct Beneficial Interest Owner" means a natural person or a Closely Held Business entity that owns a share or shares of stock in a licensed Retail Marijuana Establishment, including the officers, directors, members, or partners of the licensed Retail Marijuana Establishment or Closely Held Business Entity, or a Qualified Limited Passive Investor. Each natural person that is

a Direct Beneficial Interest Owner must hold an Associated Key License. Except that a Qualified Limited Passive Investor need not hold an Associated Key License and shall not engage in activities for which an Occupational License is required.

“Director” means the Director of the Marijuana Enforcement Division.

“Division” means the Marijuana Enforcement Division.

“Edible Retail Marijuana Product” means any Retail Marijuana Product which is intended to be consumed orally, including but not limited to, any type of food, drink, or pill.

“Executive Director” means the Executive Director of the Department of Revenue.

“Exit Package” means a sealed Container or package provided at the retail point of sale, in which any Retail Marijuana or Retail Marijuana Product already within a Container are placed.

“Final Agency Order” means an Order of the State Licensing Authority issued in accordance with the Retail Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

“Financial Interest” means any Direct Beneficial Interest Owner, a Commercially Reasonable Royalty Interest Holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product subject to the royalty, a Permitted Economic Interest holder, and any other Person who controls or is positioned so as to enable the exercise of control over the Retail Marijuana Establishment.

“Flammable Solvent” means a liquid that has a flash point below 100 degrees Fahrenheit.

“Flowering” means the reproductive state of *Cannabis* in which the plant is in a light cycle intended to stimulate production of flowers, trichromes, and cannabinoids characteristic of marijuana.

“Food-Based Retail Marijuana Concentrate” means a Retail Marijuana Concentrate that was produced by extracting cannabinoids from Retail Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

“Good Cause” for purposes of denial of an initial, renewal, or reinstatement of a license application, means:

a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Retail Code, any rules promulgated pursuant to it, or any supplemental relevant state or local law, rule, or regulation;

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or

c. The Licensee’s Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

“Good Moral Character” means having a personal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

“Harvest Batch” means a specifically identified quantity of processed Retail Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time.

“Harvested Marijuana” means post-Flowering Retail Marijuana not including trim, concentrate or waste that remains on the premises of the Retail Marijuana Cultivation Facility or its off-premises storage location beyond 60 days from harvest.

“Identity Statement” means the name of the business as it is commonly known and used in any Advertising.

“Immature plant” means a nonflowering Retail Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and is in a cultivating container. Plants meeting these requirements are not attributable to a Licensee’s maximum allowable plant count, but must be fully accounted for in the Inventory Tracking System.

"Indirect Beneficial Interest Owner" means a holder of a Permitted Economic Interest, a recipient of a Commercially Reasonable Royalty associated with the use of intellectual property by a Licensee, a Profit-Sharing Plan Employee, a Qualified Institutional Investor, or another similarly situated Person as determined by the State Licensing Authority. An Indirect Beneficial Interest Owner is not a Licensee. The Licensee must obtain Division approval for an Indirect Beneficial Interest Owner that constitutes a Financial Interest before such Indirect Beneficial Interest Owner may exercise any of the privileges of the ownership or interest with respect to the Licensee.

“Industrial Hemp” means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

“Industrial Hygienist” means an individual who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from and accredited college or university.

a. The special studies and training of such individuals shall be sufficient in the cognate sciences to provide the ability and competency to:

    1. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

    2. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

    3. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

b. Any individual who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.

c. Any individual who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

"Inventory Tracking System" means the required seed-to-sale tracking system that tracks Retail Marijuana from either the seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to a customer at a Retail Marijuana Store or is destroyed.

"Inventory Tracking System Trained Administrator" means an Associated Key Licensee of a Retail Marijuana Establishment or an occupationally licensed employee of a Retail Marijuana Establishment, each of whom has attended and successfully completed Inventory Tracking System training and has completed any additional training required by the Division.

"Inventory Tracking System User" means an Associated Key Licensee of a Retail Marijuana Establishment or an occupationally licensed Retail Marijuana Establishment employee, who is granted Inventory Tracking System User account access for the purposes of performing inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have been successfully trained by an Inventory Tracking System Trained Administrator in the proper and lawful use of Inventory Tracking System.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Retail Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, or test Retail Marijuana in accordance with the provisions of the Retail Code and these rules.

"Licensee" means any Person licensed or registered pursuant to the Retail Code or, in the case of an Occupational License Licensee, any individual licensed pursuant to the Retail Code or Medical Code.

"Limited Access Area" means a building, room, or other contiguous area upon the Licensed Premises where Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee.

"Limit of Detection" or "LOD" means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

"Limit of Quantitation" or "LOQ" means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

"Liquid Edible Retail Marijuana Product" means an Edible Retail Marijuana Product that is a liquid beverage or food-based product and intended to be consumed orally, such as a soft drink or cooking sauce.

"Material Change" means any change that would require a substantive revision to a Retail Marijuana Establishment's standard operating procedures for the cultivation of Retail Marijuana or the production of a Retail Marijuana Concentrate or Retail Marijuana Product.

“Medical Code” means the Colorado Medical Marijuana Code found at sections 12-43.3-101 *et. seq*., C.R.S.

“Medical Marijuana” means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

“Medical Marijuana Business” means a Medical Marijuana Center, a Medical Marijuana-Infused Product Manufacturer, an Optional Premises Cultivation Operation, a Medical Marijuana Testing Facility, a Medical Marijuana Business Operator, or a Medical Marijuana Transporter.

“Medical Marijuana Business Operator” means an entity that holds a registration from the State Licensing Authority to provide professional operational services to one or more Medical Marijuana Businesses for direct remuneration from the Medical Marijuana Business(es), which may include compensation based upon a percentage of the profits of the Medical Marijuana Business(es) being operated. A Medical Marijuana Business Operator may contract with Medical Marijuana Business(es) to provide operational services. A Medical Marijuana Business Operator’s contract with a Medical Marijuana Business does not in and of itself constitute ownership.

“Medical Marijuana Center” means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402, C.R.S., and sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

“Medical Marijuana Concentrate” means a specific subset of Medical Marijuana that was produced by extracting cannabinoids from Medical Marijuana. Categories of Medical Marijuana Concentrate include Water-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate and Solvent-Based Medical Marijuana Concentrate.

“Medical Marijuana-Infused Product” means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the “Colorado Food and Drug Act,” part 4 of Article 5 of Title 25, C.R.S.

“Medical Marijuana-Infused Products Manufacturer” means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

“Medical Marijuana Testing Facility” means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Medical Marijuana, Medical Marijuana-Infused Products, and Medical Marijuana Concentrate for contaminants and potency.

“Medical Marijuana Transporter” means a Person that is licensed to transport Medical Marijuana and Medical Marijuana-Infused Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana-Infused Products at its licensed premises, but is not authorized to sell, give away, buy, or receive complimentary Medical Marijuana or Medical Marijuana-Infused Products under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana or Medical Marijuana-Infused Products.

“Monitoring” means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Retail Marijuana Establishment Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

“Monitoring Company” means a person in the business of providing security system Monitoring services for the Licensed Premises of a Retail Marijuana Establishment.

“Multiple-Serving Edible Retail Marijuana Product” means an Edible Retail Marijuana Product unit for sale to consumers containing more than 10mg of active THC and no more than 100mg of active THC. If the overall Edible Retail Marijuana Product unit for sale to the consumer consists of multiple pieces where each individual piece may contain less than 10mg active THC, yet in total all pieces combined within the unit for sale contain more than 10mg of active THC, then the Edible Retail Marijuana Product shall be considered a Multiple-Serving Edible Retail Marijuana Product.

“Notice of Denial” means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

“Occupational License” means a license granted to an individual by the State Licensing Authority pursuant to section 12-43.3-401 or 12-43.4-401, C.R.S.

“Opaque” means that the packaging does not allow the product to be seen without opening the packaging material.

“Optional Premises Cultivation Operation” means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

“Order to Show Cause” means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee’s license.

“Owner” means, except where the context otherwise requires, a Direct Beneficial Interest Owner.

“Permitted Economic Interest” means an Agreement to obtain an ownership interest in a Retail Marijuana Establishment or Medical Marijuana Business when the holder of such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying and obtaining a license as an owner under the Retail Code or Medical Code. A Permitted Economic Interest holder is an Indirect Beneficial Interest Owner.

“Person” means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that “Person” does not include any governmental organization.

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term “pesticide” shall not include any article that is a “new animal drug” as designated by the United States Food and Drug Administration.

“Production Batch” means (a) any amount of Retail Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Retail Marijuana; or (b) any amount of Retail Marijuana Product of the same exact type, produced using the same ingredients, standard operating procedures and the same Production Batch(es) of Retail Marijuana Concentrate.

“Professional Engineer” means an individual who is licensed by the State of Colorado as a professional engineer pursuant to 12-25-101 et. seq., C.R.S.

“Proficiency Testing Samples” means performing the same analyses on the same samples and comparing results to ensure the Samples are homogenous and stable, and also that the set of samples analyzed are appropriate to test and display similarities and differences in results.

“Profit-Sharing Plan” means a profit-sharing plan that is qualified pursuant to 26 U.S.C. § 401 of the Internal Revenue Code and subject to the Employee Retirement Income Security Act, and which provides for employer contributions in the form of cash, but not in the form of stock or other equity interests in a Retail Marijuana Establishment.

“Profit-Sharing Plan Employee” means an employee holding an Occupational License who receives a share of a Retail Marijuana Establishment’s profits through a Profit-Sharing Plan. A Profit-Sharing Plan Employee is an Indirect Beneficial Interest Owner.

“Propagation” means the reproduction of Retail Marijuana plants by seeds, cuttings or grafting.

“Qualified Institutional Investor” means:

a. A bank as defined in Section 3(a) (6) of the Federal Securities Exchange Act of 1934, as amended;

b. An insurance company as defined in Section 2(a) (17) of the Investment Company Act of 1940, as amended;

c. An investment company registered under Section 8 of the Investment Company Act of 1940, as amended;

d. An investment adviser registered under Section 203 of the Investment Advisers Act of 1940, as amended;

e. Collective trust funds as defined in Section 3(c) (11) of the Investment Company Act of 1940, as amended;

f. An employee benefit plan or pension fund that is subject to the Employee Retirement Income Security Act of 1974, as amended, excluding an employee benefit plan or pension fund sponsored by a licensed or an intermediary or holding company licensee which directly or indirectly owns five percent or more of a licensee;

g. A state or federal government pension plan; or

h. A group comprised entirely of persons specified in (a) through (g) of this definition.

A Qualified Institutional Investor is an Indirect Beneficial Interest Owner.

“Qualified Limited Passive Investor” means a natural person who is a United States citizen and is a passive investor who owns less than a five percent share or shares of stock in a licensed Retail Marijuana Establishment. A Qualified Limited Passive Investor is a Direct Beneficial Interest Owner.

“RFID” means Radio Frequency Identification.

“Resealable” means that the package maintains its Child-Resistant effectiveness for multiple openings.

“Respondent” means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument or a Licensee who is subject to an Order to Show Cause.

“Restricted Access Area” means a designated and secure area within a Licensed Premises in a Retail Marijuana Store where Retail Marijuana and Retail Marijuana Product are sold, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

“Retail Code” means the Colorado Retail Marijuana Code found at sections 12-43.4-101 *et. seq*., C.R.S.

“Retail Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. “Retail Marijuana” does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

“Retail Marijuana Concentrate” means a specific subset of Retail Marijuana that was produced by extracting cannabinoids from Retail Marijuana. Categories of Retail Marijuana Concentrate include Water-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Solvent-Based Retail Marijuana Concentrate.

“Retail Marijuana Cultivation Facility” means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.

“Retail Marijuana Establishment” means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, a Retail Marijuana Testing Facility, a Retail Marijuana Establishment Operator or a Retail Marijuana Transporter.

“Retail Marijuana Establishment Operator” means an entity that holds a license from the State Licensing Authority to provide professional operational services to one or more Retail Marijuana Establishments for direct remuneration from the Retail Marijuana Establishment(s), which may include compensation based upon a percentage of the profits of the Retail Marijuana Establishment(s) being operated. A Retail Marijuana Establishment Operator contracts with Retail Marijuana Establishment(s) to provide operational services. A Retail Marijuana Business Operator’s contract with a Retail Marijuana Establishment does not in and of itself constitute ownership.

“Retail Marijuana Product” means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

“Retail Marijuana Products Manufacturing Facility” means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and sell Retail Marijuana and Retail Marijuana Product only to other Retail Marijuana Products Manufacturing Facilities and Retail Marijuana Stores.

“Retail Marijuana Store” means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

“Retail Marijuana Testing Facility” means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Retail Marijuana, Retail Marijuana Products and Retail Marijuana Concentrate for contaminants and potency.

“Retail Marijuana Transporter” means a Person that is licensed to transport Retail Marijuana and Retail Marijuana Products from one Retail Marijuana Establishment to another Retail Marijuana Establishment and to temporarily store the transported Retail Marijuana and Retail Marijuana Products at its licensed premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana or Retail Marijuana Products under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana or Retail Marijuana Products.

“Sample” means anything collected from a Retail Marijuana Establishment or Medical Marijuana Business that is provided to a Retail Marijuana Testing Facility for testing. The following is a non-exhaustive list of types of Samples: Retail Marijuana, Retail Marijuana Product, Retail Marijuana Concentrate, Medical Marijuana, Medical Marijuana-Infused Product, Medical Marijuana Concentrate, soil, growing medium, water, solvent or swab of a counter or equipment.

“Security Alarm System” means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

“Shipping Container” means a hard-sided container with a lid or other enclosure that can be secured in place, and the container is used solely for the transport of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product in bulk, or in a quantity for other Retail Marijuana Establishments.

“Single-Serving Edible Retail Marijuana Product” means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10mg of active THC.

“Solvent-Based Retail Marijuana Concentrate” means a Retail Marijuana Concentrate that was produced by extracting cannabinoids from Retail Marijuana through the use of a solvent approved by the Division pursuant to Rule R 605.

“Standardized Graphic Symbol” means a graphic image or small design adopted by a Licensee to identify its business.

“Standardized Serving Of Marijuana” means a standardized single serving of active THC. The size of a Standardized Serving Of Marijuana shall be no more than 10mg of active THC.

“State Licensing Authority” means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in Colorado, pursuant to section 12-43.3-201, C.R.S.

“THC” means tetrahydrocannabinol.

“THCA” means tetrahydrocannabinolic acid.

“Test Batch” means a group of Samples that are collectively submitted to a Retail Marijuana Testing Facility for testing purposes. A Test Batch may not be a combination of any two or three of the following: Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating the Retail Marijuana or Retail Marijuana Product contains marijuana.

"Unrecognizable" means marijuana or *Cannabis* plant material rendered indistinguishable from any other plant material.

"Vegetative" means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

"Water-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting cannabinoids from Retail Marijuana through the use of only water, ice or dry ice.

R 200 Series – Licensing and Interests

Basis and Purpose – R 201

The statutory authority for this rule is found at subsections 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(III), 12-43.4-202(3)(a)(XX), 12-43.4-202(3)(b)(IX),and 12-43.4-304(1), and sections 12-43.4-103, 12-43.4-306.5, 12-43.4-309, 12-43.4-312, 12-43.4-401, and 24-76.5-101, *et seq.*, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to establish that only materially complete applications for licenses, accompanied by all required fees, will be accepted and processed by the Division. The purpose of the rule is also to clarify that when an initial application is materially complete and accepted, but the Division determines further information is required before the application can be fully processed, the Applicant must provide the additional requested information within the time frame provided by the Division. Otherwise, the Division cannot act on the application in a timely manner, and the application may be denied.

R 201 – Application Process

A. General Requirements

1. All applications for licenses authorized pursuant to subsections 12-43.4-401(1)(a)-(g), C.R.S., shall be made upon current forms prescribed by the Division.

2. A license issued to a Retail Marijuana Establishment or an individual constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. Each application shall identify the relevant local jurisdiction.

4. Applicants must submit a complete application to the Division before it will be accepted or considered.

   a. All applications must be complete and accurate in every material detail.

   b. All applications must include all attachments or supplemental information required by the current forms supplied by the Division.

   c. All applications must be accompanied by a full remittance of the application and relevant license fees for each applicant and each premise. *See* Rules R 207 - Schedule of Application Fees: Retail

Marijuana Establishments, R 208 - Schedule of Business License Fees: Retail Marijuana Establishments, R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments, R 234 – Schedule of License Fees: Individuals, and R 235 – Schedule of Renewal Fees: Individuals.

d. All applications must include all information required by the Division related to the Applicant's proposed Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners and Qualified Limited Passive Investors, and all other direct and indirect financial interests in the Applicant.

e. At a minimum, each Applicant for a new license shall provide, at the time of application, the following information:

i. For each Associated Key License Applicant, evidence of proof of lawful presence, citizenship, if applicable, residence, if applicable, and Good Moral Character as required by the current forms prescribed by the Division;

ii. For each Retail Marijuana Establishment Applicant and each Associated Key License Applicant, all requested information concerning financial and management associations and interests of other Persons in the business;

iii. If the Applicant for any license pursuant to the Retail Code is a Closely Held Business Entity it shall submit with the application:

A. The Associated Key License applications for all of its shareholders, members, partners, officers and directors who do not already hold an Associated Key License;

B. If the Closely Held Business Entity is a corporation, a copy of its articles of incorporation or articles of organization; evidence of authorization from the Colorado Secretary of State to do business within this State, for each shareholder: his or her name, mailing address, state of residence and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business;

C. If the Closely Held Business Entity is a limited liability company, a copy of its articles of incorporation and its operating agreement; evidence of authorization from the Colorado Secretary of State to do business within this State, for each member: his or her name, mailing address, state of residence and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business;

D. If the Closely Held Business Entity is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, a copy of the partnership agreement and, for each partner, his or her name, mailing address and state of residency and

certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business.

iv. For each Retail Marijuana Establishment Applicant and each Associated Key License Applicant, documentation establishing compliant return filing and payment of taxes related to any Medical Marijuana Business or Retail Marijuana Establishment in which such Applicant is, or was, required to file and pay taxes;

v. For each Retail Marijuana Establishment Applicant and each Associated Key License Applicant, documentation verifying and confirming the funds used to start and/or sustain the operation of the medical or retail marijuana business were lawfully earned or obtained.

vi. Accurate floor plans for the premises to be licensed; and

viii. The deed, lease, sublease, contract, or other document(s) governing the terms and conditions of occupancy of the premises to be licensed.

5. All applications to reinstate a license will be deemed applications for new licenses. This includes, but is not limited to, Associated Key licenses that have expired, Retail Marijuana Establishment licenses that have been expired for more than 90 days, licenses that have been voluntarily surrendered, licenses for which local licensing approval was not obtained within 12 months, and licenses that have been revoked.

6. The Division may refuse to accept or consider an incomplete application.

B. Additional Information May Be Required

1. Upon request by the Division, an Applicant shall provide any additional information required to process and fully investigate the application. The additional information must be provided to the Division no later than seven days after the request is made unless otherwise specified by the Division.

2. An Applicant's failure to provide the requested information by the Division deadline may be grounds for denial of the application.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made misstatements, omissions, misrepresentations or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis for additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Medical Code, the Retail Code or for any other state or local law enforcement purpose or as otherwise required by law.

E. Division Application Management and Local Licensure.

1. The Division will either approve or deny a complete application between 45 days and 90 days of its receipt.

2. For each application for a new Retail Marijuana Establishment, the Applicant shall submit the original application and one identical copy. The Division will retain the original application for a new Retail Marijuana Establishment and will send the copy and half the application fee to the relevant local jurisdiction within seven days of receiving the application.

3. If the Division grants a license before the relevant local jurisdiction approves the application or grants a local license, the license will be conditioned upon local approval. Such a condition will not be viewed as a denial pursuant to the Administrative Procedure Act. If the local jurisdiction denies the application, the state license will be revoked.

4. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing through the relevant local jurisdiction. Should the Applicant fail to obtain local jurisdiction approval or licensing within the specified period, the state license shall expire and may not be renewed.

5. An Applicant is prohibited from operating a Retail Marijuana Establishment prior to obtaining all necessary licenses or approvals from both the State Licensing Authority and the relevant local jurisdiction.

6. Each Financial Interest is void and of no effect unless and until approved by the Division. A Financial Interest shall not exercise any privilege associated with the proposed interest until approved by the Division. Any violation of this requirement may be considered a license violation affecting public safety.

R 201.5 – Repealed Effective January 1, 2017.

R 202 – Repealed Effective January 1, 2017.

Basis and Purpose – R 202.1

The statutory authority for this rule is found at subsections, 12-43.4-104(2)(a), 12-43.4-202(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(III), 12-43.4-202(3)(a)(XX), 12-43.4-202(3)(b)(IX), 12-43.4-306.5, and 12-43.4-309(2), and sections 12-43.4-103 and 12-43.4-312, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to clarify the process to be followed when a Retail Marijuana Establishment applies to obtain financing or otherwise have a relationship with an Indirect Beneficial Interest Owner. The rule establishes that only materially complete Retail Marijuana Establishment applications for Indirect Beneficial Interest Owners, accompanied by all required fees, will be accepted and processed by the Division. The rule also clarifies that when an initial application is materially complete and accepted, but the Division determines further information is required before the application can be fully processed, the Retail Marijuana Establishment Applicant must provide the additional requested information within the time frame provided by the Division. Otherwise, the Division cannot act on the application in a timely manner, and the Retail Marijuana Establishment's application may be denied. The rule sets forth requirements for the contents of

the contract or Agreement between Retail Marijuana Establishments and Indirect Beneficial Interest Owners, which reflect basic legal requirements surrounding the relationship between the parties.

R 202.1 – Applications, Agreements, Contracts and Certifications Required for Indirect Beneficial Interest Owners: Retail Marijuana Establishments

A. Retail Marijuana Establishment Initiates Process. The Retail Marijuana Establishment seeking to obtain financing or otherwise establish any type of relationship with an Indirect Beneficial Interest Owner, including a Permitted Economic Interest, a Commercially Reasonable Royalty Interest Holder, a Profit-Sharing Plan Employee, or a Qualified Institutional Investor, must file all required documents with the Division, including any supplemental documents requested by the Division in the course of its review of the application.

B. General Requirements. The Retail Marijuana Establishment seeking approval of an Indirect Beneficial Interest Owner must meet the following requirements:

1. All applications for approval of an Indirect Beneficial Interest Owner shall be made upon current forms prescribed by the Division.

2. The burden of proving that a proposed Indirect Beneficial Interest Owner is qualified to hold such an interest rests at all times with the Retail Marijuana Establishment submitting the application.

3. The Retail Marijuana Establishment applying for approval of any type of Indirect Beneficial Interest Owner must submit a complete application to the Division before it will be accepted or considered.

4. All applications must be complete and accurate in every material detail.

5. All applications must include all attachments or supplemental information required by the current forms supplied by the Division.

6. All applications must be accompanied by a full remittance of the required fees.

7. The Division may refuse to accept an incomplete application.

8. The proposed holder of the Indirect Beneficial Interest is not a publicly traded company.

9. Additional Information May Be Required

a. Upon request by the Division, a Retail Marijuana Establishment applying to have any type of Indirect Beneficial Interest Owner shall provide any additional information required to process and fully investigate the application. The additional information must be provided to the Division no later than seven days after the request is made unless otherwise specified by the Division.

b. Failure to provide the requested information by the Division's deadline may be grounds for denial of the application.

C. Information Must Be Provided Truthfully. A Retail Marijuana Establishment applying for approval of any type of Indirect Beneficial Interest Owner shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of

an application where any party made misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the proposed Indirect Beneficial Interest Owner. This type of conduct may be considered as the basis for additional administrative action against the Retail Marijuana Establishment and it may also be the basis for criminal charges against either the Retail Marijuana Establishment Applicant or the Indirect Beneficial Interest Owner.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Medical Code, the Retail Code or for any other state or local law enforcement purpose or as otherwise required by law.

E. Approval of Financial Interest. Each Financial Interest in a Retail Marijuana Establishment is void and of no effect unless and until approved by the Division. Any amendment of a Financial Interest is also void and of no effect unless and until approved by the Division.

F. Ongoing Qualification and Violation Affecting Public Safety. If at any time the Division finds any Indirect Beneficial Interest Owner is not qualified, or is no longer qualified, the Division may require the Retail Marijuana Establishment to terminate its relationship with and financial ties to the Indirect Beneficial Interest Owner within a specified time period. Failure to terminate such relationship and financial ties within the specified time period may constitute a violation affecting public safety and be a basis for administrative action against the Retail Marijuana Establishment.

G. Permitted Economic Interest Holder Requirements. At the time of application, a Retail Marijuana Establishment seeking to obtain approval of a Permitted Economic Interest shall provide evidence to establish that the natural person seeking to become a Permitted Economic Interest holder is a lawful resident of the United States and shall provide documentation verifying and confirming the funds used for the Permitted Economic Interest were lawfully earned or obtained.

H. Permitted Economic Interest Agreement Requirements. The Retail Marijuana Establishment Applicant seeking to obtain financing from a Permitted Economic Interest must submit a copy of the Agreement between the Retail Marijuana Establishment and the person seeking to hold a Permitted Economic Interest. The following requirements apply to all Agreements:

1. The Agreement must be complete, and must fully incorporate all terms and conditions.

2. The following provisions must be included in the Agreement:

    a. Any interest in a Retail Marijuana Establishment, whether held by a Permitted Economic Interest or any other person, must be acquired in accordance with the provisions of the Medical Code and/or Retail Code, as applicable, and the rules promulgated thereunder. The issuance of any Agreement or other interest in violation thereof shall be void. The Permitted Economic Interest holder shall not provide funding to the Retail Marijuana Establishment until the Permitted Economic Interest is approved by the Division.

b. No Agreement or other interest issued by the Retail Marijuana Establishment and no claim or charge therein or thereto shall be transferred except in accordance with the provisions of the Medical Code and/or Retail Code as applicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void.

c. The Retail Marijuana Establishment and the Permitted Economic Interest holder must sign an affirmation of passive investment on a form approved by the Division.

d. The Retail Marijuana Establishment must initiate any process to convert a Permitted Economic Interest to a Direct Beneficial Interest Owner and the process to convert the Permitted Economic Interest into a Direct Beneficial Interest Owner must be completed prior to the expiration or termination of the Agreement. The holder of the Permitted Economic Interest must meet all qualifications for licensure and ownership pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder prior to conversion of the Permitted Economic Interest to a Direct Beneficial Interest Owner.

e. At the election of the Retail Marijuana Establishment, if the holder of the Permitted Economic Interest is not qualified for licensure as a Direct Beneficial Interest Owner but is qualified as a holder of the Permitted Economic Interest, and the Permitted Economic Interest is also approved by the Division then the Permitted Economic Interest may remain in force and effect for as long as it remains approved by the Division under the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

f. The Permitted Economic Interest holder shall disclose in writing to the Division and to the Retail Marijuana Establishment any and all disqualifying events, within ten days after occurrence of the event, that could lead to a finding that the holder no longer qualifies to hold the Permitted Economic Interest and/or that could lead to a denial of licensure pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder.

g. The Retail Marijuana Establishment shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which could lead to a finding that the holder is no longer qualified to hold the Permitted Economic Interest and/or that could lead to a denial of licensure pursuant to the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

h. A Permitted Economic Interest holder's or a Retail Marijuana Establishment's failure to make required disclosures may be grounds for administrative action including but not limited to denial of a subsequent request to convert the Permitted Economic Interest into an ownership interest in the Retail Marijuana Establishment. Failure to make required disclosures may lead to a finding that the Permitted Economic Interest is no longer approved, and a requirement that the Retail Marijuana Establishment terminate its relationship with the Permitted Economic Interest holder.

i. The Permitted Economic Interest holder agrees and acknowledges that it has no entitlement or expectation of being able to invest in, or have a

relationship with, the Retail Marijuana Establishment unless and until the Division determines the Permitted Economic Interest is approved. The Permitted Economic Interest holder agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval. The Permitted Economic Interest holder understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Permitted Economic Interest or find that the Permitted Economic Interest is no longer qualified. The Permitted Economic Interest Holder agrees and acknowledges it has no entitlement to or expectation of the Division approving the Permitted Economic Interest. The Permitted Economic Interest holder further agrees that any administrative or judicial review of a determination by the Division regarding the qualification or approval of the Permitted Economic Interest will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. The Permitted Economic Interest holder further agrees and acknowledges that the Permitted Economic Interest holder shall only be entitled to notice of a denial or administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest holder. The Permitted Economic Interest holder also agrees and acknowledges that the Permitted Economic Interest holder may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest holder. Furthermore, the Permitted Economic Interest holder agrees and acknowledges that the Permitted Economic Interest holder may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest Holder. THE PERMITTED ECONOMIC INTEREST HOLDER KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE PERMITTED ECONOMIC INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE PERMITTED ECONOMIC INTEREST, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

I. Commercially Reasonable Royalty Interest Contract Requirements. A Retail Marijuana Establishment seeking to utilize the intellectual property of a Commercially Reasonable Royalty Interest Holder must submit a copy of the contract between the Retail Marijuana Establishment and the Person seeking to hold a Commercially Reasonable Royalty Interest. The following requirements apply to all such contracts:

1. The contract must be complete, and must fully incorporate all terms and conditions.

2. The following provisions must be included in the contract:

a. Any interest in a Retail Marijuana Establishment, whether held by a Commercially Reasonable Royalty Interest Holder or any other person, must be acquired in accordance with the provisions of the Medical Code and/or Retail Code, as applicable, and the rules promulgated thereunder. The issuance of any contract or other interest in violation thereof shall be void.

b. No contract, royalty or other interest issued by the Retail Marijuana Establishment and no claim or charge therein or thereto shall be transferred except in accordance with the provisions of the Medical Code and/or Retail Code as applicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void.

c. The Retail Marijuana Establishment and the Commercially Reasonable Royalty Interest Holder must sign an affirmation of passive investment on a form approved by the Division.

d. The Commercially Reasonable Royalty Interest Holder shall disclose in writing to the Division and to the Retail Marijuana Establishment any and all disqualifying events, within ten days after occurrence of the event, that could lead to a finding that the Commercially Reasonable Royalty Interest Holder is not qualified to hold the Commercially Reasonable Royalty Interest.

e. The Retail Marijuana Establishment shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which would lead to a finding that the Commercially Reasonable Royalty Interest Holder is not qualified to hold the Commercially Reasonable Royalty Interest.

f. A Commercially Reasonable Royalty Interest Holder's or a Retail Marijuana Establishment's failure to make required disclosures may lead to a finding that the Commercially Reasonable Royalty Interest is not approved, or is no longer approved, and may lead to a requirement that the Retail Marijuana Establishment terminate its relationship with the Commercially Reasonable Royalty Interest Holder.

g. The Commercially Reasonable Royalty Interest Holder agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval throughout the entire term of its relationship with the Retail Marijuana Establishment. The Commercially Reasonable Royalty Interest Holder understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, find that the Commercially Reasonable Royalty Interest Holder does not qualify or no longer qualifies. The Commercially Reasonable Royalty Interest Holder agrees and acknowledges it has no entitlement to or expectation to approval of the Commercially Reasonable Royalty Interest.

h. The Commercially Reasonable Royalty Interest Holder further agrees that any administrative or judicial review of a determination by the Division approving or denying the Commercially Reasonable Royalty will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. The Commercially Reasonable Royalty Interest Holder further agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder shall only be entitled to notice of a

denial or administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. The Commercially Reasonable Royalty Interest Holder also agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. Furthermore, the Commercially Reasonable Royalty Interest Holder agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

i. If the Division determines the Commercially Reasonable Royalty Interest Holder is not in compliance with the Retail Code, the Medical Code or these rules, then the recipient shall discontinue sales of any product or line of products containing any of that Commercially Reasonable Royalty Interest Holder's intellectual property within thirty (30) days of the Division finding. The recipient shall not pay any remuneration to a Commercially Reasonable Royalty Interest Holder that does not qualify under the Retail Code and these rules, including but not limited to Rule R 231.2(B).

j. The Commercially Reasonable Royalty Interest Holder shall neither exercise control over nor be positioned so as to enable the exercise of control over the Retail Marijuana Establishment. Notwithstanding the foregoing, a Commercially Reasonable Royalty Interest Holder may influence the marketing, advertising, labeling and display of the product or line of products for which the Commercially Reasonably Royalty Interest exists so long as such influence is not inconsistent with the Retail Code, the Medical Code or these rules.

J. Profit-Sharing Plan Documents. A Retail Marijuana Establishment offering licensed employees a share of the profits through a Profit-Sharing Plan must submit a list of all proposed participants in the Profit-Sharing Plan along with their names, addresses and occupational license numbers and submit a copy of all documentation regarding the Profit-Sharing Plan in connection with the Retail Marijuana Establishment's application:

1. The documents establishing the Profit-Sharing Plan must be complete and must fully incorporate all terms and conditions.

2. The following provisions must be included in the documents establishing the Profit-Sharing Plan:

    a. Any interest in a Retail Marijuana Establishment, whether held by a Profit-Sharing Plan Employee or any other person, must be acquired in accordance with the provisions of the Medical Code and/or Retail Code, as applicable, and the rules promulgated thereunder. The issuance of any contract or other interest in violation thereof shall be void.

    b. No contract or other interest issued by the Retail Marijuana Establishment and no claim or charge therein or thereto shall be transferred except in accordance with the provisions of the Medical Code and/or Retail Code as applicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void. Any distributions from a Profit-Sharing Plan must be made in cash, not in the form of stock or other equity interests in the Retail Marijuana Establishment.

    c. The Retail Marijuana Establishment shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which would lead to a finding that any Profit-Sharing Plan Employee does not qualify under the Retail Code and these rules, including but not limited to Rule R 231.6(B), to participate in the Profit-Sharing Plan.

    d. A Profit-Sharing Plan Employee shall disclose in writing to the Division and to the Retail Marijuana Establishment any and all disqualifying events, within ten days after occurrence of the event that could lead to a finding that the Profit-Sharing Plan Employee does not qualify or no longer qualifies under the Retail Code and these rules, including but not limited to Rule R 231.2(B), to participate in the Profit-Sharing Plan.

    e. A Retail Marijuana Establishment's or a Profit-Sharing Plan Employee's failure to make required disclosures may lead to a finding that the Profit-Sharing Plan is not approved, and may lead to a requirement that the Retail Marijuana Establishment terminate or modify the Profit-Sharing Plan.

    f. The Profit-Sharing Plan Employee agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval throughout the entire term of its relationship with the Retail Marijuana Establishment. The Profit-Sharing Plan Employee understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Profit-Sharing Plan. The Profit-Sharing Plan Employee agrees and acknowledges he or she has no entitlement to or expectation to Division approval of the Profit-Sharing Plan or the Profit-Sharing Plan Employee's participation in the plan. The Profit-Sharing Plan Employee further agrees that any administrative or judicial review of a determination by the Division approving or denying the Profit-Sharing Plan or the Profit-Sharing Plan Employee will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. Each Profit-Sharing Plan Employee further agrees and acknowledges that the Profit-Sharing Plan Employee shall only be entitled to notice of a denial or

administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. The Profit-Sharing Plan Employee also agrees and acknowledges that the Profit-Sharing Plan Employee may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. Furthermore, the Profit Sharing Plan Employee agrees and acknowledges that the Profit-Sharing Plan Employee may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. THE PROFIT-SHARING PLAN EMPLOYEE KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE PROFIT-SHARING PLAN OR THE PROFIT-SHARING PLAN EMPLOYEE BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE PROFIT-SHARING PLAN OR THE PROFIT-SHARING PLAN EMPLOYEE'S QUALIFICATIONS OR ACTIONS OF THE PROFIT-SHARING PLAN EMPLOYEE, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

K. Qualified Institutional Investor Requirements. Before a Retail Marijuana Establishment may permit a Qualified Institutional Investor to own any portion of the Retail Marijuana Establishment, the Retail Marijuana Establishment must submit the following documentation to the Division in connection with the Retail Marijuana Establishment's application:

1. A description of the Qualified Institutional Investor's business and a statement as to why the Qualified Institutional Investor meets the definition of Qualified Institutional Investor in Rule R 103 and subsection 12-43.4-306.5(7), C.R.S.

2. A certification made under oath and the penalty of perjury by the Qualified Institutional Investor:

   a. That the ownership interests were acquired and are held for investment purposes only and were acquired and are held in the ordinary course of business as a Qualified Institutional Investor and not for the purposes of causing, directly or indirectly, the election of a majority of the board of directors, any change in the corporate charter, bylaws, management, policies, or operations of a Retail Marijuana Establishment.

   b. That the Qualified Institutional Investor is bound by and shall comply with the Retail Code and the rules adopted pursuant thereto, is subject to the jurisdiction of the courts of Colorado, and consents to Colorado as the choice of forum in the event any dispute, question, or controversy arises regarding the Qualified Institutional Investor's relationship with the Retail Marijuana Establishment or activities pursuant to the Retail Code and rules adopted pursuant thereto.

c. The Qualified Institutional Investor agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval throughout the entire term of its relationship with the Retail Marijuana Establishment. The Qualified Institutional Investor understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Qualified Institutional Investor. The Qualified Institutional Investor agrees and acknowledges it has no entitlement to or expectation to Division approval of the Qualified Institutional Investor. The Qualified Institutional Investor further agrees that any administrative or judicial review of a determination by the Division approving or denying the Qualified Institutional Investor will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. The Qualified Institutional Investor further agrees and acknowledges that the Qualified Institutional Investor shall only be entitled to notice of a denial or administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Qualified Institutional Investor. The Qualified Institutional Investor also agrees and acknowledges that the Qualified Institutional Investor may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Qualified Institutional Investor. Furthermore, the Qualified Institutional Investor agrees and acknowledges that the Qualified Institutional Investor may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Qualified Institutional Investor. THE QUALIFIED INSTITUTIONAL INVESTOR KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE QUALIFIED INSTITUTIONAL INVESTOR BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE QUALIFIED INSTITUTIONAL INVESTOR, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

d. An explanation of the basis of the signatory's authority to sign the certification and to bind the Qualified Institutional Investor to its terms.

3. The name, address, telephone number and any other information requested by the Division as required on its approved forms for the officers and directors, or their equivalent, of the Qualified Institutional Investor as well as those Persons that have direct control over the Qualified Institutional Investor's ownership interest in the Retail Marijuana Establishment.

4. The name, address, telephone number and any other information requested by the Division as required on its approved forms for each Person who has the power to direct or control the Qualified Institutional Investor's voting of its shares in the Retail Marijuana Establishment.

5. The name of each Person that beneficially owns 5 percent or more of the Qualified Institutional Investor's voting securities or other equivalent.

6. A list of the Qualified Institutional Investor's affiliates.

7. A list of all regulatory agencies with which the Qualified Institutional Investor files periodic reports, and the name, address, and telephone number of the individual, if known, to contact at each agency regarding the Qualified Institutional Investor.

8. A disclosure of all criminal or regulatory sanctions imposed during the preceding 10 years and of any administrative or court proceedings filed by any regulatory agency during the preceding 5 years against the Qualified Institutional Investor, its affiliates, any current officer or director, or any former officer or director whose tenure ended within the preceding 12 months. As to a former officer or director, such information need be provided only to the extent that it relates to actions arising out of or during such person's tenure with the Qualified Institutional Investor or its affiliates.

9. A copy of any filing made under 16 U.S.C § 18a with respect to the acquisition or proposed acquisition of an ownership interest in the Retail Marijuana Establishment.

10. Any additional information requested by the Division.

R 202.5 – Repealed Effective January 1, 2017.

Basis and Purpose – R 203

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(I) and (XIV.5), and sections 12-43.4-103 and 12-43.4-310, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how licenses can be renewed.

R 203 – Process for Renewing a License: Retail Marijuana Establishments

A. General Process for License Renewal.

1. The Division will send a Notice for License Renewal 90 days prior to the expiration of an existing license by first class mail to the Licensee’s mailing address of record.

2. A Licensee may apply for the renewal of an existing license not less than 30 days prior to the license’s expiration date. If a Licensee timely applies for the renewal of an existing license, the Division may administratively continue the license beyond the expiration date while it completes the renewal licensing process.

3. If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the untimely filing. If the Division accepts the application, then the Division may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.

4. An application for renewal will only be accepted if it is accompanied by:

   a. The requisite licensing fees. *See* Rule R 209 - Schedule of Business License Renewal Fees: Retail Marijuana Establishments; and

   b. A copy of the relevant local jurisdiction's approval.

5. Each Direct Beneficial Interest Owner required to have an Associated Key License must be fingerprinted at least every two years, and may be fingerprinted more often at the Division's discretion.

6. The Division shall perform a limited background check, which may include fingerprinting, regarding Qualified Limited Passive Investors and other Financial Interests that are Indirect Beneficial Interest Owners. If the background check provides reasonable cause for additional investigation, the Division may require additional investigation.

7. For each renewal application, the Licensee shall submit the original application and one identical copy. The Division will retain the original renewal application and will send the copy to the relevant local jurisdiction within seven days of receiving the renewal application.

B. Failure to Receive a Notice for License Renewal. Failure to receive a Notice for License Renewal does not relieve a Licensee of the obligation to renew all licenses as required.

C. If License Not Renewed Before Expiration or Administratively Continued. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required fees.

1. In the event the license is not renewed prior to expiration, a Retail Marijuana Establishment may not operate unless it has been administratively continued.

2. If a former Retail Marijuana Establishment Licensee files an application within 90 days of expiration of its license with the Division and pays the requisite fees to the Division, the Division may administratively continue the license from the date the application is received until it can complete its renewal application process and investigate the extent to which the Retail Marijuana Establishment Licensee operated with an expired license.

3. The Division will not renew any Retail Marijuana Establishment license expired over 90 days prior to submission of the Retail Marijuana Establishment Licensee's renewal application, nor will it renew any license that has been voluntarily surrendered, any Retail Marijuana Establishment license for which local licensing approval was not obtained within 12 months, or any license that has been revoked. Retail Marijuana Establishment license that expired over 90 days prior to submission of the Retail Marijuana Establishment Licensee's renewal application, a license that has been voluntarily surrendered, a Retail Marijuana Establishment license for which local licensing approval was not obtained within 12 months, and a license that has been revoked may only be reinstated via an application for a new license that is subsequently approved by the Division or the State Licensing Authority.

D. Licenses Subject to Ongoing Discipline and/or Summary Suspension. Licenses that are the subject of a summary suspension, a disciplinary action, and/or any other administrative action are subject to the requirements of this rule. Licenses that are not

timely renewed shall expire. *See* Rules R 1301 – Disciplinary Process: Non-Summary Suspension and R 1302 – Disciplinary Process: Summary Suspensions.

E. Closely Held Business Entity Direct Beneficial Interest Owners. Closely Held Business Entity Direct Beneficial Interest Owners must submit a current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment certifying that each Associated Key License owner of the Closely Held Business Entity has maintained, and currently maintains, United States citizenship.

F. Indirect Beneficial Interest Owners and Qualified Limited Passive Investors. At the time of renewal, a Retail Marijuana Establishment shall disclose any and all Indirect Beneficial Interest Owners and Qualified Limited Passive Investors that hold an interest in the Retail Marijuana Establishment. Additionally, the Retail Marijuana Establishment must present updated information regarding all Indirect Beneficial Interest Owners and Qualified Limited Passive Investors at the time the Retail Marijuana Establishment submits its renewal materials:

1. Current Division Indirect Beneficial Interest Owners and Qualified Limited Passive Investors renewal disclosure forms;

2. Current Division form allowing the Division to investigate any Indirect Beneficial Interest Owner(s) and/or Qualified Limited Passive Investor(s) if the Division deems such investigation necessary. The form shall be signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment;

3. Permitted Economic Interest holders, at the discretion of the Division, may be required to submit new fingerprints;

4. Current Division certification form attesting that all Qualified Limited Passive Investor(s) and/or all Indirect Beneficial Interest Owner(s) remain qualified under the Retail Code and these rules. The form shall be signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment;

5. For Permitted Economic Interest Holder, current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment and the particular Permitted Economic Interest holder, certifying that he or she has maintained, and currently maintains, lawful residence in the United States; and

6. For Qualified Limited Passive Investors, current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment and the particular Qualified Limited Passive Investor, certifying that he or she has maintained, and currently maintains, United States citizenship.

Basis and Purpose – R 204

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(IX) and 12-43.4-202(3)(a)(XX), and sections 12-43.4-103, 12-43.4-306.5, 12-43.4-309 and 12-43.4-312, C.R.S. The purpose of this rule is to provide clarity regarding the nature of a Direct Beneficial Interest Owner and an Indirect Beneficial Interest Owner, and to clarify what factors the State Licensing Authority generally considers regarding the same. The Division will review all relevant information to determine ownership of a Retail Marijuana Establishment.

R 204 – Ownership Interests of a License: Retail Marijuana Establishments

A. Licenses Held By Direct Beneficial Interest Owners. Each Retail Marijuana Establishment License must be held by its Direct Beneficial Interest Owner(s). Each natural person other than a Qualified Limited Passive Investor must hold an Associated Key license. A Direct Beneficial Interest Owner shall not be a publicly traded company.

B. 100% Ownership.

1. The sum of the percentages of ownership of all Direct Beneficial Interest Owners of a Retail Marijuana Establishment and Qualified Institutional Investors must equal 100%.

a. Qualified Institutional Investors may hold ownership interests, in the aggregate, of 30% or less in the Retail Marijuana Establishment.

b. A Qualified Limited Passive Investor must be a natural person who is a United States citizen and may hold an ownership interest of less than five percent in the Retail Marijuana Establishment.

c. Each Direct Beneficial Interest Owner, including but not limited to each officer, director, managing member, or partner of a Retail Marijuana Establishment, must hold a current and valid Associated Key License. *See* Rule R 233 – Retail Code or Medical Code Occupational Licenses Required. Except that this requirement shall not apply to Qualified Limited Passive Investors.

d. With the exception of Qualified Institutional Investors, only Direct Beneficial Interest Owners may hold a partnership interest, limited or general, a joint venture interest, or ownership of a share or shares in a corporation or a limited liability company which is licensed.

e. In the event of the death, disability, disqualification, divestment, termination, or revocation of the license of a Direct Beneficial Interest Owner or of approval of a Qualified Institutional Investor, a Retail Marijuana Establishment shall have 45 days to submit a change of ownership application to the Division detailing the Licensee's plan for redistribution of ownership among the remaining Direct Beneficial Interest Owners and Qualified Institutional Investors. Such plan is subject to approval by the Division. If a change of ownership application is not timely submitted, the Retail Marijuana Establishment and its Associated Key Licensee(s) may be subject to administrative action.

C. At Least One Associated Key License Required. No Retail Marijuana Establishment may operate or be licensed unless it has at least one Associated Key Licensee that is a Direct Beneficial Interest Owner who has been a Colorado resident for at least one year prior to application. Any violation of this requirement may be considered a license violation affecting public safety.

D. Loss Of Occupational License As An Owner Of Multiple Businesses. If an Associated Key License is suspended or revoked as to one Retail Marijuana Establishment or Medical Marijuana Business, that Associated Key License, shall be suspended or revoked as to any other Retail Marijuana Establishment or Medical Marijuana Business in which that Person possesses an ownership interest. *See* Rule R 233 – Retail Code or Medical Code Occupational Licenses Required.

E. Management Companies. Any Person contracted to manage the overall operation of a Licensed Premises must hold a Retail Marijuana Operator license.

F. Role of Managers. Associated Key Licensees may hire managers, and managers may be compensated on the basis of profits made, gross or net. A Retail Marijuana Establishment license may not be held in the name of a manager who is not a Direct Beneficial Interest Owner. A manager who does not hold an Associated Key License as a Direct Beneficial Interest Owner of the Retail Marijuana Establishment, must hold a Key License as an employee of the Retail Marijuana Establishment. Any change in manager must be reported to the Division within seven (7) days of the change. Additionally, a Retail Marijuana Operator may include management services as part of the operational services provided to a Retail Marijuana Establishment. A Retail Marijuana Establishment and its Direct Beneficial Interest Owners may be subject to license denial or administrative action including, but not limited to, fine, suspension or revocation of their license(s) based on the acts or omissions of any manager, Retail Marijuana Establishment Operator, or agents and employees thereof engaged in the operations of the Retail Marijuana Establishment.

Basis and Purpose – R 204.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.3-202(3)(a)(III), 12-43.4-202(3)(a)(XIV.5), 12-43.4-202(3)(a)(XX), 12-43.4-202(3)(b)(V), 12-43.4-202(3)(b)(VI), 12-43.4-202(3)(b)(VIII), 12-43.4-202(3)(b)(IX), and sections 12-43.4-103, 12-43.4-304, 12-43.4-306, 12-43.4-306.5, 12-43.4-308, 12-43.4-309, and 12-43.4-312, C.R.S. The purpose of this rule is to clarify the application, review and approval process for various types of Business Interests. The Division will review all relevant information to determine ownership of, interests in, and control of a Retail Marijuana Establishment.

R 204.5 – Disclosure, Approval and Review of Business Interests

A. Business Interests. A Retail Marijuana Establishment shall disclose all Business Interests at the time of initial application and at the time of each renewal application. Business Interests include Financial Interests and Affiliated Interests. Any Financial Interest must be pre-approved by the Division. It shall be unlawful to fail to completely report all Business Interests in each license issued. It shall be unlawful for a person other than a Financial Interest holding an Associated Key License to exercise control over a Retail Marijuana Establishment or to be positioned so as to enable the exercise of control over a Retail Marijuana Establishment. Except that a Qualified Institutional Investor and a Qualified Limited Passive Investor may vote his, her or its shares in the Retail Marijuana Establishment.

B. Financial Interests. A Retail Marijuana Establishment shall not permit any Person to hold or exercise a Financial Interest in the Retail Marijuana Establishment unless and until such Person's Financial Interest has been approved by the Division. If a Retail Marijuana Establishment wishes to permit a Person to hold or exercise a Financial Interest, and that Person has not been previously approved in connection with an application for the Retail Marijuana Establishment, the Retail Marijuana Establishment shall submit a change of ownership or financial interest form approved by the Division. A Financial Interest shall include:

1. Any Direct Beneficial Interest Owner;

2. The following types of Indirect Beneficial Interest Owners:

    a. A Commercially Reasonable Royalty Interest Holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product or line of products subject to the royalty; and

    b. A Permitted Economic Interest holder.

3. Control. Any other Person who exercises control or is positioned so as to enable the exercise of control over the Retail Marijuana Establishment must hold an Associated Key License. A natural person who exercises control or is positioned so as to enable the exercise of control over a Retail Marijuana Establishment shall include but shall not be limited to a natural person who:

    a. Bears the risk of loss and opportunity for profit;

    b. Has final decision making authority over any material aspect of the operation of the Retail Marijuana Establishment;

    c. Manages the overall operations of a Retail Marijuana Establishment or its Licensed Premises, or who manages a material portion of the Retail Marijuana Establishment or its Licensed Premises*;*

    d. Guarantees the Retail Marijuana Establishment's debts or production levels;

    e. Is a beneficiary of the Retail Marijuana Establishment's insurance policies;

    f. Receives the majority of the Retail Marijuana Establishment's profits as compared to other recipients of the Retail Marijuana Establishment's profits; or

    g. Acknowledges liability for the Retail Marijuana Establishment's federal, state or local taxes.

C. Affiliated Interests. A Retail Marijuana Establishment shall disclose all Affiliated Interests in connection with each application for licensure, renewal or reinstatement of the Retail Marijuana Establishment. The Division may conduct such background investigation as it deems appropriate regarding Affiliated Interests. An Affiliated Interest shall include any Person who does not hold a Financial Interest in the Retail Marijuana Establishment and who has any of the following relationships with the Retail Marijuana Establishment:

1. The following Indirect Beneficial Interest Owners:

    a. A Commercially Reasonable Royalty Interest Holder who receives 30 percent or less of the gross revenue or gross profit from sales of the product or line of products subject to the royalty;

    b. A Profit-Sharing Plan Employee; and

    c. A Qualified Institutional Investor.

2. Any other Person who holds any other disclosable interest in the Retail Marijuana Establishment other than a Financial Interest. Such disclosable interests shall include but shall not be limited to a lease agreement, a secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, sale, transportation, or testing of Retail Marijuana or Retail Marijuana Products.

3. If the Division determines any Person disclosed as an Affiliated Interest should have been pre-approved as a Financial Interest, approval and further background investigation may be required. Additionally, the failure to seek pre-approval of a Financial Interest holder may form the basis for license denial or administrative action against the Retail Marijuana Establishment.

D. Secured Interest In Marijuana Prohibited. No Person shall at any time hold a secured interest in Retail Marijuana or Retail Marijuana Products.

Basis and Purpose – R 205

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 12-43.4-202(3)(a)(XIV.5), 12-43.4-304, 12-43.4-306, 12-43.4-309(2), and sections 12-43.4-103, 12-43.4-308, 12-43.4-406, 12-43.4-407 and 24-76.5-101, *et. seq.,* C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish protocol for ownership transfers. In addition, the rule clarifies that a business cannot use the transfer of ownership process in order to circumvent the administrative disciplinary process and that an ongoing investigation or

disciplinary action may: (1) constitute grounds to deny a transfer of ownership request; (2) constitute grounds to delay a transfer of ownership request, or (3) mandate that the new business owner is responsible for any imposed sanction.

R 205 – Transfer of Ownership and Changes in Business Structure: Retail Marijuana Establishments

A. General Requirements

1. All applications for transfers of Direct Beneficial Interest Owners or changes in corporate structure by licensed Retail Marijuana Establishments authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon current forms prescribed by the Division. Each application shall identify the relevant local jurisdiction.

2. All applications for transfers of ownership and changes in Retail Marijuana Establishments must include application fees, be complete in every material detail, and be filled out truthfully.

3. All applications for transfers of ownership and changes in licensed entities by Retail Marijuana Establishments must be reported to the State Licensing Authority or its designee and relevant local jurisdiction at least 30 days prior to any requested transfer or change.

4. Each Applicant for a transfer of ownership shall provide suitable evidence as required by the Division, in accordance with these rules and the Retail Code, of each natural person's proof of lawful presence, citizenship, residence, good character and reputation and verification that funds used to invest in or finance the retail marijuana business were lawfully earned or obtained. Each Applicant shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, Department of Revenue tax payment information, the deed, lease, contract, or other document governing the terms and conditions of occupancy of the Licensed Premises. Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary to determining an Applicant's suitability for licensure.

5. Failure to provide such additional information by the deadline specified by the Division may result in denial of the application.

6. The Applicant shall provide the original and one copy of an application for transfer of ownership to the Division. The Division will retain the original application and send the copy to the relevant local jurisdiction within seven days of receiving the application. *See* Rule R 1401 - Instructions for Local Jurisdictions and Law Enforcement Officers.

7. The Division will not approve a transfer of ownership application without first receiving written notification that the Applicant disclosed the transfer of ownership to the relevant local jurisdiction. If a local jurisdiction elects not to approve or deny a transfer of ownership application, the local jurisdiction must provide written notification acknowledging receipt of the application and the State Licensing Authority shall revoke the state-issued license.

8. The Applicant(s), or proposed transferee(s), for any license shall not operate the Retail Marijuana Establishment identified in the transfer of ownership application

until the transfer of ownership request is approved in writing by the State Licensing Authority or its designee. A violation of this requirement shall constitute grounds to deny the transfer of ownership request, may be a violation affecting public safety, and may result in disciplinary action against the Applicant's existing license(s), if applicable.

9. All current Direct Beneficial Interest Owner(s), or proposed transferor(s), of the license(s) at issue retain full responsibility for the Retail Marijuana Establishment identified in the transfer of ownership application until the transfer of ownership request is approved in writing by the Division. A violation of this requirement shall constitute grounds to deny the transfer of ownership request, may be a violation affecting public safety, and may result in disciplinary action against the license(s) of the current Direct Beneficial Interest Owners and/or the Retail Marijuana Establishment.

10. If a Retail Marijuana Establishment or any of its Direct Beneficial Interest Owners applies to transfer ownership and is involved in an administrative investigation or administrative disciplinary action, the following may apply:

    a. The transfer of ownership may be delayed or denied until the administrative action is resolved; or

    b. If the transfer of ownership request is approved in writing by the Division, the transferee may be responsible for the actions of the Retail Marijuana Establishment and its prior Direct Beneficial Interest Owners, and subject to discipline based upon the same.

11. Licensee Initiates Change of Ownership for Permitted Economic Interests. All individuals holding a Permitted Economic Interest who seek to convert to become a Direct Beneficial Interest Owner are subject to this Rule R 205. The Retail Marijuana Establishment must initiate the change of ownership process for an individual holding a Permitted Economic Interest who seeks to convert its interest to become a Direct Beneficial Interest Owner. Permitted Economic Interest holders who are not qualified to become a Direct Beneficial Interest Owner shall not be allowed to convert.

12. Retail Marijuana Transporters Not Eligible. Retail Marijuana Transporters are not eligible to apply for change of ownership.

B. As It Relates to Corporations and Limited Liability Companies

1. If the Applicant is a corporation or limited liability company, it shall submit with the application the names, mailing addresses, and background forms of all of its officers, directors, and Direct and Indirect Beneficial Interest Owners; a copy of its articles of incorporation or articles of organization; and evidence of its authorization to do business within this State. In addition, each Applicant shall submit the names, mailing addresses, and, where applicable, certifications of residency or citizenship for all Persons owning any of the outstanding or issued capital stock or holding a membership interest. No publicly traded company may be identified as the proposed recipient of any ownership interest in a Retail Marijuana Establishment.

2. Any proposed transfer of capital stock, regardless of the number of shares of capital stock transferred, shall be reported and approved by the State Licensing Authority or its designee and the relevant local jurisdiction at least 30 days prior

to such transfer or change. If a local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

C. As It Relates to Partnerships. If the Applicant is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, mailing addresses, background forms and, where applicable, certification of residency or citizenship for all of its partners and a copy of its partnership agreement.

D. As It Relates to Entity Conversions. Any Licensee that qualifies for an entity conversion pursuant to sections 7-90-201, C.R.S., *et. seq*., shall not be required to file a transfer of ownership application pursuant to section 12-43.4-308, C.R.S., upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least 30 days prior to such conversion. Such evidence shall include, but not be limited to, any conversion documents or agreements for conversion at least ten days prior to the date of recognition of conversion by the Colorado Secretary of State. The Licensee shall submit to the Division the names and mailing addresses of any officers, directors, general or managing partners, and all Direct and Indirect Beneficial Owners.

E. Approval Required. It may be considered a license violation affecting public safety if a Licensee engages in any transfer of ownership without prior approval from the Division and the relevant local jurisdiction.

F. Applications for Reinstatement Deemed New Applications. The Division will not accept an application for transfer of ownership if the license to be transferred is expired for more than 90 days, is voluntarily surrendered, or is revoked. *See* Rule R 202 - Process for Issuing a New License: Retail Marijuana Establishments.

Basis and Purpose – R 206

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), and 12-43.4-202(3)(a)(I), 12-43.4-309(6), 12-43.4-309(12) and section 12-43.4-304, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify the application process for changing location of a Licensed Premises.

R 206 – Changing Location of Licensed Premises: Retail Marijuana Establishments

A. Application Required to Change Location of Licensed Premises

1. A Direct Beneficial Interest Owner or other authorized representative of a Retail Marijuana Establishment must make application to the Division for permission to change location of its Licensed Premise.

2. Such application shall:

a. Be made upon current forms prescribed by the Division;

b. Be complete in every material detail and include remittance of all applicable fees;

c. Be submitted at least 30 days prior to the proposed change;

d. Explain the reason for requesting such change;

e. Be supported by evidence that the application complies with the relevant local jurisdiction requirements; and

f. Contain a report of the relevant local jurisdiction(s) in which the Retail Marijuana Establishment is to be situated, which report shall demonstrate the approval of the local jurisdiction(s) with respect to the new location. If the relevant local jurisdiction elects not to approve or deny a change of location of Licensed Premises application, the local jurisdiction must provide written notification acknowledging receipt of the application.

B. Permit Required Before Changing Location

1. No change of location shall be permitted until after the Division considers the application, and such additional information as it may require, and issues to the Applicant a permit for such change.

2. The permit shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate a Retail Marijuana Establishment at the former location. At no time may a Retail Marijuana Establishment operate or exercise any of the privileges granted pursuant to the license in both locations. For good cause shown, the 120 day deadline may be extended for an additional 90 days. If the Licensee does not change the location of its business within the time period granted by the Division, including any extension, the Licensee shall submit a new application, pay the requisite fees and receive a new permit prior to completing any change of the location of the business.

3. The permit shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.

C. General Requirements

1. An application for change of location to a different local jurisdiction shall follow the same procedures as an application for a new Retail Marijuana Establishment license, except that licensing fees will not be assessed until the license is renewed. *See* Rule R 202 - Process for Issuing a New License: Retail Marijuana Establishments.

2. An Applicant for change of location within the same local jurisdiction shall file a change of location application with the Division and pay the requisite change of location fee. *See* Rule R 207 - Schedule of Application Fees: Retail Marijuana Establishments.

Basis and Purpose - R 211

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I) and (II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b) and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S. The purpose of this rule is to clarify that, with the exception of Medical Marijuana Testing Facilities, Medical Marijuana Business Operators and Medical Marijuana Business Transporters, an existing Medical Marijuana Business may apply to convert a Medical Marijuana Business License to a Retail Marijuana Establishment License or may apply to obtain one additional license to operate a Retail Marijuana Establishment. It is important to note that the State Licensing Authority considers each license issued as separate and distinct. Each license, whether it is in the same location or not, is fully responsible to maintain compliance with all statutes and rules promulgated regardless of whether or not they are located in a shared address.

A Medical Marijuana Business may only obtain one Retail Marijuana Establishment License, whether it converts the Medical Business License or obtains a Retail Marijuana Establishment License, for each Medical Marijuana Business License it holds. In order to ensure all Retail Marijuana and Retail Marijuana Product are tracked in the Inventory Tracking System and as a condition of licensure, a Medical Marijuana Business must declare in the Inventory Tracking System all Medical Marijuana and Medical Marijuana Infused-Product that are converted for sale as Retail Marijuana or Retail Marijuana Product prior to initiating or allowing any sales. This declaration may be made only once, in part, due to the excise tax issues that may be implicated if a Licensee makes multiple conversions from Medical Marijuana or Medical Marijuana-Infused Product to Retail Marijuana or Retail Marijuana Product. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility. The marijuana subject to the one-time transfer is subject to the excise tax upon the first transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Establishment.

The State Licensing Authority received several comments from stakeholders who requested lower fees for Medical Marijuana Businesses that were either converting a Medical Marijuana Business license to a Retail Marijuana Establishment license or obtaining an additional Retail Marijuana Establishment license while retaining the existing Medical Marijuana Business license. The adopted permanent regulations reflect changes to address this concern. Under the rules as adopted Medical Marijuana Businesses that apply to convert to a Retail Marijuana Establishment license will be required to pay an application fee, but no license fees will be charged until such time as the renewal fees would have been due under the Medical Marijuana Business license term. The Retail Marijuana Establishment license, if approved, would assume the balance of the license term from the Medical Marijuana Business license and have the same expiration date.

This rule also informs existing and prospective licensees of production management conditions. The State Licensing Authority intends to replace or revise this rule's production management provisions as early as January 2017 by transitioning to an output-based production management model. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

R 211 – Conversion - Medical Marijuana Business to Retail Marijuana Establishment Pursuant to 12-43.4-104(1)(a)(I), C.R.S.

A. Medical Marijuana Business Applying for a Retail Marijuana Establishment License. Except for a Medical Marijuana Testing Facility, a Medical Marijuana Business Operator or a Medical Marijuana Business Transporter, a Medical Marijuana Business in good standing or who had a pending application as of December 10, 2012 that has not yet been denied, and who has paid all applicable fees may apply for a Retail Marijuana Establishment license in accordance with the Retail Code and these rules on or after October 1, 2013. A Medical Marijuana Business meeting these conditions may apply to convert a Medical Marijuana Business license to a Retail Marijuana Establishment license or may apply for a single Retail Marijuana Establishment of the requisite class of license in the Medical Marijuana Code for each Medical Marijuana Business License not converted.

B. Retail Marijuana Establishment Expiration Date.

1. A Medical Marijuana Business converting its license to a Retail Marijuana Establishment license shall not be required to pay a license fee at the time of application for conversion.

2. If a Medical Marijuana Business licensee is scheduled to renew its license during the processing of its conversion to a Retail Marijuana Establishment license, the Medical Marijuana Business must complete all renewal applications and pay the requisite renewal licensing fees.

3. A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Business license will assume the balance of licensing term previously held by the surrendered Medical Marijuana Business license.

C. Retail Marijuana Establishment Licenses Conditioned

1. It shall be unlawful for a Retail Marijuana Establishment to operate without being issued a Retail Marijuana Establishment license by the State Licensing Authority and receiving all relevant local jurisdiction approvals. Each Retail Marijuana Establishment license issued shall be conditioned on the Licensee's receipt of all required local jurisdiction approvals and licensing, if required.

2. Each Retail Marijuana Establishment license issued shall be conditioned on the Medical Marijuana Business' declaration of the amount of Medical Marijuana or Medical Marijuana-Infused Product it intends to transfer from the requisite Medical Marijuana Business for sale as Retail Marijuana or Retail Marijuana Product. A Licensee that converts to a Retail Marijuana Establishment shall not exercise any of the rights or privileges of a Retail Marijuana Establishment until such time as all such Medical Marijuana and Medical Marijuana-Infused Product are fully transferred and declared in the Inventory Tracking System as Retail Marijuana and Retail Marijuana Product. See also, Rule R 309 –Inventory Tracking System. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility.

D. One-Time Transfer

1. This rule R 211(D)(1) is repealed effective July 1, 2016. Prior to July 1, 2016, once a Retail Marijuana Establishment has declared Medical Marijuana and Medical Marijuana-Infused Product as Retail Marijuana or Retail Marijuana Product in the Inventory Tracking System and begun exercising the rights and privileges of the license, no additional Medical Marijuana or Medical Marijuana-Infused Product can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

1.5. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and a Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility. All other transfers are prohibited, including but not limited to transfers from a Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer to any Retail Marijuana Establishment. Once a Retail Marijuana Establishment has declared Medical Marijuana and Medical Marijuana Concentrate as Retail Marijuana or Retail Marijuana Concentrate in the Inventory Tracking System and begun exercising

the rights and privileges of the license, no additional Medical Marijuana or Medical Marijuana Concentrate can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

E. Additional Application Disclosures.

1. At the time of application for a Retail Marijuana Store license an Applicant must designate the Medical Marijuana Center license intended to be used to obtain the Retail Marijuana Store license, whether or not that license will be converted, by providing its business license number.

2. At the time of application for a Retail Marijuana Products Manufacturing Facility license an Applicant must designate the Medical Marijuana Infused-Products Manufacturing Business license intended to be used to obtain the Retail Marijuana Products Manufacturing license, whether or not that license will be converted, by providing its business license number.

3. At the time of application for a Retail Marijuana Cultivation Facility license an Applicant must designate the Optional Premises Cultivation Operation license intended to be used to obtain the Retail Marijuana Cultivation Facility license, whether or not that license will be converted, by providing its business license number.

F. One Retail Cultivation License per Licensed Premises.

1. Only one Retail Marijuana Cultivation Facility License shall be permitted at each licensed premises. Each licensed premises must be located at a distinct address recognized by the local jurisdiction. Each licensed premise must have its own public entrance and be securely and physically separated from any other address located within the same structure.

2. Existing Retail Marijuana Cultivation Facilities that have Multiple Cultivation Licenses at the Licensed Premises. Upon the first renewal at the Retail Marijuana Cultivation Facility, all of the Retail Marijuana Cultivation Facility's licenses will be collapsed into one surviving license, and fees shall be prorated for the non-expiring licenses. The maximum authorized plant count shall also collapse into the surviving license. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

G. Authorized Plant Count and Associated Fees.

1. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 shall be authorized to cultivate no more than 1,800 plants at any given time and are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

2. All Retail Marijuana Cultivation Facility licenses granted before November 30, 2015 are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

3. As of November 30, 2015, a Retail Marijuana Cultivation Facility license that was associated with a Retail Marijuana Products Manufacturing Facility shall be authorized to cultivate no more than 1,800 plants at any given time. If such a Retail Marijuana Cultivation Facility licensee submitted a plant count waiver

application prior to August 31, 2015 and it was subsequently approved, the license shall be authorized to cultivate the maximum number of plants at any given time in the corresponding production management tier pursuant to rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

4. Upon demonstrating certain conditions, the Direct Beneficial Interest Owner/s of an existing Retail Marijuana Cultivation Facility license may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management. If the application is approved, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. See rule R 208 – Schedule of Business License Fees: Retail Marijuana Establishments.

5. At renewal, a Licensee that is authorized to cultivate more than 1,800 plants shall pay the requisite Retail Marijuana Cultivation Facility licensee fee and the applicable expanded production management tier fee. See rule R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments.

6. At renewal, the Division will review a Licensee's maximum authorized plant count and may reduce it pursuant to the requirements of rule R 506.

7. The State Licensing Authority, in its sole discretion, may adjust any of the plant limits described in this rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

H. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person with an Interest in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses a person has an interest in, the person must have a controlling interest in at least one Retail Marijuana Store. For example: (1) a person with an interest in three, four, or five Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least one Retail Marijuana Store; (2) a person with an interest in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least two Retail Marijuana Stores; (3) a person with an interest in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least three Retail Marijuana Stores; etc.

2. A Person with an Interest in Less than Three Retail Marijuana Cultivation Facility Licenses. The person shall not be required to have an interest in a Retail Marijuana Store.

Basis and Purpose – R 212

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I-II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b); and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S. This rule also informs existing and prospective licensees licensed pursuant to 12-43.4-104(1)(b)(II), C.R.S. of licensing and production management conditions. The State Licensing Authority intends to replace or revise this rule's production management provisions as early as January 2017 by transitioning to an output-based production management model. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being

produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

Rule R 212 – New Applicant Retail Marijuana Cultivation Facilities Licensed Pursuant To 12-43.4-104(1)(b)(II), C.R.S.

A. Applicability. This rule R 212 shall apply to all new applicant Retail Marijuana Cultivation Facility Licenses granted after September 30, 2014 pursuant to 12-43.4-104(1)(b)(II), C.R.S.

B. One Retail Cultivation License per Licensed Premises.

1. Only one Retail Marijuana Cultivation Facility License shall be permitted at each licensed premises. Each licensed premises must be located at a distinct address recognized by the local jurisdiction. Each licensed premise must have its own public entrance and be securely and physically separated from any other address located within the same structure.

2. Existing Retail Marijuana Cultivation Facilities that have Multiple Cultivation Licenses at the Licensed Premises. Upon the first renewal at the Retail Marijuana Cultivation Facility, all of the Retail Marijuana Cultivation Facility's licenses will be collapsed into one surviving license, and fees shall be prorated for the non-expiring licenses. The maximum authorized plant count shall also collapse into the surviving license. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

C. Authorized Plant Count and Associated Fees.

1. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 shall be authorized to cultivate no more than 1,800 plants at any given time and are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

2. All Retail Marijuana Cultivation Facility licenses granted before November 30, 2015 are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

3. As of November 30, 2015, a Retail Marijuana Cultivation Facility license that was associated with a Retail Marijuana Products Manufacturing Facility shall be authorized to cultivate no more than 1,800 plants at any given time. If such a Retail Marijuana Cultivation Facility licensee submitted a plant count waiver application prior to August 31, 2015 and it was subsequently approved, the license shall be authorized to cultivate the maximum number of plants at any given time in the corresponding production management tier pursuant to rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

4. Upon demonstrating certain conditions, the Direct Beneficial Interest Owner/s of an existing Retail Marijuana Cultivation Facility license may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management. If the application is approved, the Licensee shall pay the applicable expanded production

management tier fee prior to cultivating the additional authorized plants. See rule R 208 – Schedule of Business License Fees: Retail Marijuana Establishments.

5. At renewal, a Licensee that is authorized to cultivate more than 1,800 plants shall pay the requisite Retail Marijuana Cultivation Facility licensee fee and the applicable expanded production management tier fee. See rule R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments.

6. At renewal, the Division will review a Licensee's maximum authorized plant count and may reduce it pursuant to the requirements of rule R 506.

7. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

D. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person with an Interest in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses a person has an interest in, the person must have a controlling interest in at least one Retail Marijuana Store. For example: (1) a person with an interest in three, four, or five Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least one Retail Marijuana Store; (2) a person with an interest in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least two Retail Marijuana Stores; (3) a person with an interest in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least three Retail Marijuana Stores; etc.

2. A Person with an Interest in Less than Three Retail Marijuana Cultivation Facility Licenses. The person shall not be required to have an interest in a Retail Marijuana Store.

R 230 – Repealed Effective January 1, 2017.

Basis and Purpose – R 231

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), and 24-18-105(3), and sections 12-43.4-103, 12-43.4-305, 12-43.4-306 12-43.3-306.5, and 24-76.5-101, *et. seq.,* C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to clarify the qualifications for licensure, including, but not limited to, background investigations for Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners, contractors, employees, and other support staff of licensed entities.

R 231 – Qualifications for Licensure and Residency

A. Any Applicant may be required to establish his or her identity and age by any document required for a determination of Colorado residency, United States citizenship or lawful presence.

B. Maintaining Ongoing Licensing Qualification: Duty to Report Offenses. An Applicant or Licensee shall notify the Division in writing of any felony criminal charge and felony conviction against such person within ten days of such person's arrest or felony

summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the Division may be grounds for disciplinary action. Applicants and Licensees shall notify the Division within ten days of any other event that renders the Applicant or Licensee no longer qualified under these rules. Licensees shall cooperate in any investigation conducted by the Division. This duty to report includes, but is not limited to, deferred sentences or judgments that are not sealed. If the Division lawfully finds a disqualifying event and an Applicant asserts that the record was sealed, the Division may require the Applicant to provide proof from a court evidencing the sealing of the case.

C. Application Forms Accessible to Law Enforcement and Licensing Authorities. All application forms supplied by the Division and filed by an Applicant for licensure shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agent.

D. Associated Key Licenses. Each Direct Beneficial Interest Owner who is a natural person, including but not limited to each officer, director, member or partner of a Closely Held Business Entity, must apply for and hold at all times a valid Associated Key License. Except that these criteria shall not apply to Qualified Limited Passive Investors, who are not required to hold Associated Key Licenses. Each such Direct Beneficial Interest Owner must establish that he or she meets the following criteria before receiving an Associated Key License:

1. The Applicant has paid the annual application and licensing fees;

2. The Applicant's criminal history indicates that he or she is of Good Moral Character;

3. The Applicant is not employing, or financed in whole or in part, by any other Person whose criminal history indicates that he or she is not of Good Moral Character;

4. The Applicant is at least 21 years of age;

5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Retail Marijuana Establishment or Medical Marijuana Business, if applicable;

6. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The Applicant meets qualifications for licensure that directly and demonstrably relate to the operation of a Retail Marijuana Establishment.

8. The Applicant is not currently subject to or has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer, except that the State Licensing Authority may grant a license to a Person if the Person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the Person were convicted of the offense on the date he or she applied for a license;

9. The Applicant does not employ another person who does not have a valid Occupational License issued pursuant to either the Retail Code or the Medical Code.

10. The Applicant is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;

11. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for individuals, Retail Marijuana Establishments and/or Medical Marijuana Businesses licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application;

12. The premises that the Applicant proposes to be licensed is not currently licensed as a retail food establishment or wholesale food registrant;

13. The Applicant either:

    a. Has been a resident of Colorado for at least one year prior to the date of the application, or

    b. Has been a United States citizen since a date prior to the date of the application and has received a Finding of Suitability from the Division prior to filing the application. *See* Rule R 231.1 – Finding of Suitability, Residency and Requirements for Direct Beneficial Interest Owners; Rule R 232 – Factors Considered When Determining Residency and Citizenship: Individuals.

14. For Associated Key Licensees who are owners of a Closely Held Business Entity, the Applicant is a United States citizen.

E. Occupational Licenses. An Occupational License Applicant who is not applying for an Associated Key License must establish that he or she meets the following criteria before receiving an Occupational License:

1. The Applicant has paid the annual application and licensing fees;

2. The Applicant's criminal history indicates that he or she is of Good Moral Character;

3. The Applicant is at least 21 years of age;

4. The Applicant is currently a resident of Colorado. *See* Rule R 232 – Factors Considered When Determining Residency and Citizenship: Individuals.

5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Medical Marijuana Business or Retail Marijuana Establishment;

6. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the

possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer, except that the State Licensing Authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for a license;

8. The Applicant is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local jurisdiction; and

9. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for occupational licensees, Retail Marijuana Establishments and/or Medical Marijuana Businesses licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.

F. Current Medical Marijuana Occupational Licensees.

1. An individual who holds a current, valid Occupational License issued pursuant to the Medical Code may also work in a Retail Marijuana Establishment; no separate Occupational License is required.

2. An individual who holds a current, valid Occupational License issued pursuant to the Retail Code and these rules shall only work at licensed premises that are exclusively a Retail Marijuana Establishment and shall not work at a Medical Marijuana Business unless he or she also holds a current, valid Occupational License issued pursuant to the Medical Code.

G. Associated Key License Privileges. A person who holds an Associated Key License must associate that license separately with each Retail Marijuana Establishment or Medical Marijuana Business with which the person is associated by submitting a form approved by the Division. A person who holds an Associated Key License may exercise the privileges of a licensed employee in any licensed Retail Marijuana Establishment or Medical Marijuana Business in which they are not an owner so long as the person does not exercise privileges of ownership.

H. Qualified Limited Passive Investor. An Applicant who wishes to be a Qualified Limited Passive Investor and hold an interest in a Retail Marijuana Establishment as a Direct Beneficial Interest Owner must establish that he or she meets the following criteria before the ownership interest will be approved:

1. He or she is a natural person;

2. The Applicant qualifies under Rule R 231.2(B);

3. He or she has been a United States citizen since a date prior to the date of the application, and

4. He or she has signed an affirmation of passive investment.

Basis and Purpose – R 231.1

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III)) and 24-18-105(3), 12-43.4-202(3)(a)(XX), and sections 12-43.4-103, 12-43.4-304, 12-43.4-305, 12-43.4-306.5 and 24-76.5-101, *et. seq*., C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to clarify the qualifications for Direct Beneficial Interest Owners.

R 231.1 – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners

A. Finding of Suitability – Non-Resident Direct Beneficial Interest Owners. A natural person, owner, shareholder, director, officer, member or partner of an entity that intends to apply to become a Direct Beneficial Interest Owner who has not been a resident of Colorado for at least one year prior to the application shall first submit a request to the State Licensing Authority for a finding of suitability to become a Direct Beneficial Interest Owner as follows:

1. A request for a finding of suitability for a non-resident natural person shall be submitted on the forms prescribed by the Division.

2. A natural person or all owners, shareholders, directors, officers, members or partners of an entity who have not been a resident of Colorado for at least one year shall obtain a finding of suitability prior to submitting an application to become a Direct Beneficial Interest Owner to the State Licensing Authority. A non-Colorado resident's failure to obtain a finding of suitability prior to submitting an application to become a Direct Beneficial Interest Owner to the State Licensing Authority shall be grounds for denial of the application.

B. Number of Permitted Direct Beneficial Interest Owners.

1. A Retail Marijuana Establishment may be comprised of an unlimited number of Direct Beneficial Interest Owners that have been residents of Colorado for at least one year prior to the date of the application.

2. On and after January 1, 2017, a Retail Marijuana Establishment that is comprised of one or more Direct Beneficial Interest Owners who have not been Colorado residents for at least one year is limited to no more than fifteen Direct Beneficial Interest Owners, each of whom is a natural person. Further, a Retail Marijuana Establishment that is comprised of one or more Direct Beneficial Interest Owners who have not been Colorado residents for at least one year shall have at least one officer who is a Colorado resident. All officers with day-to-day operational control over a Retail Marijuana Establishment must be Colorado residents for at least one year, must maintain their Colorado residency during the period while they have day-to-day operational control over the Retail Marijuana Establishment and shall be licensed as required by the Retail Code. Rule 231 – Qualifications for Licensure and Residency: Individuals.

C. Notification of Change of Residency. A Retail Marijuana Establishment with more than fifteen Direct Beneficial Interest Owners shall provide thirty days prior notice to the Division of any Direct Beneficial Interest Owners' intent to change their residency to a residency outside Colorado. A Retail Marijuana Establishment with no more than fifteen Direct Beneficial Interest Owners shall notify the Division of the change of residency of any Direct Beneficial Interest Owner at the time of its license renewal. Failure to provide timely notice pursuant to this rule may lead to administrative action against the Retail Marijuana Establishment and its Direct Beneficial Interest Owners.

D. A Direct Beneficial Interest Owner shall not be a publicly traded company.

Basis and Purpose – R 231.2

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 24-18-105(3) and 12-43.4-202(3)(a)(XX), and sections 12-43.4-103, 12-43.4-304, 12-43.4-305, 12-43.4-306.5 and 24-76.5-101, *et. seq.*, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to clarify the qualifications for an Indirect Beneficial Interest Owner other than a Permitted Economic Interest.

R 231.2 – Qualifications for Indirect Beneficial Interest Owners and Qualified Limited Passive Investors

A. General Requirements

1. An Applicant applying to become a Commercially Reasonable Royalty Interest holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product or line of products or the holder of a Permitted Economic Interest must be pre-approved by the Division.

2. An Applicant applying to become an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made misstatements, omissions, misrepresentations, or untruths in the application. This type of conduct may be considered as the basis of additional administrative action against the Applicant and the Retail Marijuana Establishment.

3. The Division may deny the application when the Applicant fails to provide any requested information by the Division's deadline.

4. The Division's determination that an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified constitutes a revocable privilege held by the Retail Marijuana Establishment. The burden of proving the Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified rests at all times with the Retail Marijuana Establishment Applicant. Indirect Beneficial Interest Owners and Qualified Limited Passive Investors are not separately licensed by the Division. Any administrative action regarding an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor may be taken directly against the Retail Marijuana Establishment.

5. Permitted Economic Interest Fingerprints Required. Any individual applying to hold his or her first Permitted Economic Interest shall be fingerprinted for a criminal history record check. In the Division's discretion, an individual may be required to be fingerprinted again for additional criminal history record checks.

6. No publicly traded company can be an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor.

B. Qualification. The Division may consider the following non-exhaustive list of factors to determine whether an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified:

1. The Applicant's criminal history indicates that he or she is of Good Moral Character;

2. The Applicant is at least 21 years of age;

3. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Retail Marijuana Establishment or Medical Marijuana Business, if applicable;

4. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

5. The Applicant is not currently subject to and has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer, except, in the Division's discretion, a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the Person were convicted of the offense on the date he or she applied may not disqualify an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor;

6. The Applicant is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local jurisdiction;

7. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for individuals, Retail Marijuana Establishments and/or Medical Marijuana Businesses licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.

8. The Applicant has provided all documentation requested by the Division to establish qualification to be an Indirect Beneficial Interest Owner.

C. Maintaining Qualification:

1. An Indirect Beneficial Interest Owner or Qualified Limited Passive Investor shall notify the Division in writing of any felony criminal charge and felony conviction against such person within ten days of such person's arrest or felony summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the Division may be grounds for disciplinary action. This duty to report includes, but is not limited to, deferred sentences, prosecutions, or judgments that are not sealed. If the Division lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Division may require the individual to provide proof from a court evidencing the sealing of the case

2. An Indirect Beneficial Interest Owner, Qualified Limited Passive Investor and Retail Marijuana Establishment shall cooperate in any investigation into whether an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor continues to be qualified that may be conducted by the Division.

D. Divestiture of Indirect Beneficial Interest Owner or Qualified Limited Passive Investor. If the Division determines an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is not permitted to hold their interest, the Retail Marijuana Establishment shall have 60 days from such determination to divest the Indirect Beneficial Interest Owner or Qualified Limited Passive Investor. The Division may extend the 60-day deadline for good cause shown. Failure to timely divest any Indirect Beneficial Interest Owner or Qualified Limited Passive Investor the Division determines is not qualified, or is no longer qualified,

may constitute grounds for denial of license or administrative action against the Retail Marijuana Establishment and/or its Associated Key Licensee(s).

R 231.5 – Repealed Effective January 1, 2017.

Basis and Purpose – R 232

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(XX), 12-43.4-306.5(2), and 12-43.4-309(5), C.R.S. The purpose of this rule is to interpret residency requirements set forth in the Retail Code.

R 232 – Factors Considered When Determining Residency and Citizenship: Individuals

This rule applies to individual Applicants who are trying to obtain licenses issued pursuant to the Retail Code. This rule does not apply to patrons of Retail Marijuana Stores. When the State Licensing Authority determines whether an Applicant is a resident, the following factors will be considered:

A. Primary Home Defined. The location of an Applicant's principal or primary home or place of abode ("primary home") may establish Colorado residency. An Applicant's primary home is that home or place in which a person's habitation is fixed and to which the person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A primary home is a permanent building or part of a building and may include, by way of example, a house, condominium, apartment, room in a house, or manufactured housing. No rental property, vacant lot, vacant house or cabin, or other premises used solely for business purposes shall be considered a primary home.

B. Reliable Indicators That an Applicant's Primary Home is in Colorado. The State Licensing Authority considers the following types of evidence to be generally reliable indicators that a person's primary home is in Colorado.

1. Evidence of business pursuits, place of employment, income sources, residence for income or other tax purposes, age, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, existence of any other residences outside of Colorado and the amount of time spent at each such residence, and any motor vehicle or vessel registration;

2. Duly authenticated copies of the following documents may be taken into account: A current driver's license with address, recent property tax receipts, copies of recent income tax returns where a Colorado mailing address is listed as the primary address, current voter registration cards, current motor vehicle or vessel registrations, and other public records evidencing place of abode or employment; and

3. Other types of reliable evidence.

C. Totality of the Evidence. The State Licensing Authority will review the totality of the evidence, and any single piece of evidence regarding the location of a person's primary home is not necessarily determinative.

D. Other Considerations for Residency. The State Licensing Authority may consider the following circumstances:

1. Members of the armed services of the United States or any nation allied with the United States who are on active duty in this state under permanent orders and their spouses;

2. Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in Colorado and their spouses; and

3. Full-time students who are enrolled in any accredited trade school, college, or university in Colorado. The temporary absence of such student from Colorado, while the student is still enrolled at any such trade school, college, or university, shall not be deemed to terminate their residency. A student shall be deemed "full-time" if considered full-time pursuant to the rules or policy of the educational institution he or she is attending.

E. Entering Armed Forces Does Not Terminate Residency. An individual who is a Colorado resident pursuant to this rule does not terminate Colorado residency upon entering the armed services of the United States. A member of the armed services on active duty who resided in Colorado at the time the person entered military service and the person's spouse are presumed to retain their status as residents of Colorado throughout the member's active duty in the service, regardless of where stationed or for how long.

F. Determination of United States Citizenship. Whenever the Retail Code or the rules promulgated pursuant thereto require a Direct Beneficial Interest Owner to be a United States citizen, the Direct Beneficial Interest Owner must provide evidence of United States citizenship as required by the Division in accordance with applicable federal and state statutes and regulations.

Basis and Purpose – R 233

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-309(5) and 12-43.4-401(1)(e), C.R.S. The purpose of this rule is to clarify when an individual must be licensed or registered with the Division before commencing any work activity at a licensed Retail Marijuana Establishment. The rule also sets forth the process for obtaining a license or registration and explains what information may be required before obtaining such license or registration.

R 233 – Retail Code or Medical Code Occupational Licenses Required

A. Retail Code or Medical Code Occupational Licenses and Identification Badges

1. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports or delivers Retail Marijuana or Retail Marijuana Product as permitted by privileges granted under a Retail Marijuana Establishment license must have a valid Occupational License.

2. Any person who has the authority to access or input data into the Inventory Tracking System or a Retail Marijuana Establishment point of sale system must have a valid Occupational License.

3. Any person within a Restricted Access Area or Limited Access Area that does not have a valid Occupational License shall be considered a visitor and must be escorted at all times by a person who holds a valid Associated Key License or other Occupational License. Failure by a Retail Marijuana Establishment to

continuously escort a person who does not have a valid Occupational License within a Limited Access Area may be considered a license violation affecting the public safety. *See* Rule R 1307 – Penalties; *see also* Rule R 301 – Limited Access Areas. Nothing in this provision alters or eliminates a Retail Marijuana Establishment's obligation to comply with the Occupational License requirements of paragraph (A) of this rule R 233. Trade craftspeople not normally engaged in the business of cultivating, processing, or selling Retail Marijuana do not need to be accompanied at all times, and instead only reasonably monitored.

B. Occupational License Required to Commence or Continue Employment. Any person required to be licensed pursuant to these rules shall obtain all required approvals and obtain a Division-issued identification badge before commencing activities permitted by his or her Retail Code or Medical Code Occupational License. *See* Rules R 231 – Qualifications for Licensure and Residency; Rule R 204 – Ownership Interests of a License: Retail Marijuana Establishments; and R 301 – Limited Access Areas.

C. Identification Badges Are Property of State Licensing Authority. All identification badges shall remain the property of the State Licensing Authority, and all identification badges shall be returned to the Division upon demand of the State Licensing Authority or the Division. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

Basis and Purpose – R 251

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), 12-43.4-202(3)(a)(XVI), and 12-43.4-305, and sections 24-4-104 and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(I). The purpose of this rule is to establish what factors the State Licensing Authority will consider when denying an application for licensure.

R 251 – Application Denial and Voluntary Withdrawal: All Licensees

A. Applicant Bears Burden of Proving It Meets Licensing Requirements

1. At all times during the application process, an Applicant must be capable of establishing that it is qualified to hold a license.

2. An Applicant that does not cooperate with the Division during the application phase may be denied as a result. For example, if the Division requests additional evidence of qualification and the Applicant does not furnish such evidence by the date requested, the Applicant's application may be denied.

B. Applicants Must Provide Accurate Information

1. An Applicant must provide accurate information to the Division during the entire Application process.

2. If an Applicant provides inaccurate information to the Division, the Applicant's application may be denied.

C. Grounds for Denial

1. The State Licensing Authority will deny an application from an Applicant that forms a business including but not limited to a sole proprietorship, corporation, or other business enterprise, with the purpose or intent, in whole or in part, of

transporting, cultivating, processing, transferring, or distributing Retail Marijuana or Retail Marijuana Product without receiving prior approval from all relevant local jurisdictions.

2. The State Licensing Authority will deny an application for Good Cause, as defined in subsection 12-43.4-305(1), C.R.S., of the Retail Code.

3. The State Licensing Authority will deny an Applicant's application that is statutorily disqualified from holding a license.

D. Voluntary Withdrawal of Application

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application in lieu of a denial proceeding.

2. Applicants must first submit a notice to the Division requesting the voluntary withdrawal of the application. In such instances, an Applicant waives his or her right to a hearing in the matter once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant and relevant local jurisdiction of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. An Applicant May Appeal a Denial

1. An Applicant may appeal an application denial pursuant to the Administrative Procedure Act.

2. *See also* Rules R 1304 – Administrative Hearings, R 1305 – Administrative Subpoenas, and R 1306 – Administrative Hearing Appeals.

Basis and Purpose – R 252

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(IX), and 12-43.4-309(5), C.R.S. The purpose of this rule is to clarify that Retail Marijuana Establishment licenses are valid for one year unless suspended, revoked, or otherwise disciplined.

R 252 – License Must Be Renewed Each Year: All Licensees Except Retail Marijuana Transporters and Occupational Licenses

A. All Retail Code Licenses. All licenses issued pursuant to the Retail Code and these rules are valid for one year, except that a Retail Marijuana Transporter license and an Occupational License are valid for two years.

B. License May Be Valid for Less Than One Year. A License may be valid for less than one year if surrendered, or if revoked, suspended, or otherwise disciplined.

R 300 Series – The Licensed Premises

Basis and Purpose – R 301

The statutory authority for this rule is found at subsection 12-43.4-103(1), 12-43.4-103(1.3), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(V), 12-43.4-202(3)(a)(X), and 12-43.4-202(3)(b)((IX) and section 12-43.4-105, C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only individuals licensed by the State Licensing Authority. In addition, this rule clarifies that businesses and individuals cannot use the visitor system as a means to employ an individual who does not possess a valid and current Occupational License.

R 301 – Limited Access Areas

A. Proper Display of License Badge. All persons in a Limited Access Area as provided for in section 12-43.4-105, C.R.S., shall be required to hold and properly display a current license badge issued by the Division at all times. Proper display of the license badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible.

B. Visitors in Limited Access Areas

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by the Retail Marijuana Establishment's licensed personnel at all times. No more than five visitors may be escorted by a single employee. Except that trade craftspeople not normally engaged in the business of cultivating, processing or selling Retail Marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

2.1 A Retail Marijuana Establishment and a Licensee employed by the Retail Marijuana Establishment shall report any discovered plan of or other action by a visitor to commit theft, burglary, underage sales, diversion of Retail Marijuana or Retail Marijuana Product, or other crime related to the operation of the subject Retail Marijuana Establishment. Such discovered plan or other action shall be reported to the Division in accordance with Rule R 904 – Retail Marijuana Establishment Reporting Requirements.

3. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division or relevant local jurisdiction.

4. All visitors must provide proof of age and must be at least 21 years of age. *See* Rule R 404 – Acceptable Forms of Identification.

5. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log. *See* Rule R 404 – Acceptable Forms of Identification.

6. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

7. Use of a visitor badge to circumvent the Occupational License requirements of rule R 233 - Retail Code or Medical Code Occupational Licenses Required is prohibited and may constitute a license violation affecting public safety.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors."

D. Diagram for Licensed Premises. All Limited Access Areas shall be clearly identified to the Division or relevant local jurisdiction and described in a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all Propagation, cultivation, manufacturing, and retail sales areas. *See* Rule R 901 – Business Records Required.

E. Modification of Limited Access Area. A Licensee's proposed modification of designated Limited Access Areas must be approved by the Division and, if required, the relevant local jurisdiction prior to any modifications being made. *See* Rule R 303 – Changing, Altering, or Modifying Licensed Premises.

F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant local jurisdiction or state or local law enforcement, for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

Basis and Purpose – R 302

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-307(1)(b), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises.

R 302 – Possession of Licensed Premises

A. Evidence of Lawful Possession. Persons licensed pursuant to sections 12-43.4-402, 12-43.4-403, 12-43.4-404, 12-43.4-405, or 12-43.4-406. C.R.S., or those making application for such licenses, must demonstrate proof of lawful possession of the premises to be licensed or Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to licensing authorities.

B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and the relevant local jurisdiction. If the local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an Application and receiving approval to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. *See* Rule R 303 - Changing, Altering, or Modifying Licensed Premises

C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and the relevant local jurisdiction. If the local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

Basis and Purpose – R 304

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b), 12-43.4-104(1)(a)(V), 12-43.4-202(2)(b), 12-43.3-202(2.5)(a)(I)(A)-(F), 12-43.4-401(2), and 12-43.4-404(2), and sections 12-43.3-406, 12-43.4-405, and 12-43.4-406, C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Licensee may share its existing Licensed Premises with a Licensed Retail Marijuana Establishment, and to ensure the proper separation of a medical marijuana operation from Retail Marijuana Establishment operation.

R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

A. Licensed Premises – General Requirements

1. A Medical Marijuana Center that prohibits patients under the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate a dual retail business operation on the same Licensed Premises if the relevant local jurisdiction permits a dual operation at the same location and the two are commonly owned.

2. A Medical Marijuana Center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its Licensed Premises with a Retail Marijuana Establishment. Even when the two are commonly owned, the two shall maintain distinctly separate Licensed Premises; including, but not limited to, separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

3. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share a single Licensed Premises in order to operate a dual cultivation business operation if the relevant local jurisdiction permits a dual operation at the same location and the two are commonly owned.

4. A Medical Marijuana-Infused Products Manufacturer may also apply to also hold a Retail Marijuana Products Manufacturing Facility License and operate a dual manufacturing business on the same Licensed Premises, if the relevant local jurisdiction permits a dual operation at the same location and the two are commonly owned.

5. A Medical Marijuana Testing Facility Licensee and a Retail Marijuana Testing Facility Licensee may share a single Licensed Premises to operate a dual testing business operation at the same location if the relevant local jurisdiction permits dual operation at the same location and the two are identically owned.

6. A Medical Marijuana Transporter Licensee and a Retail Marijuana Transporter Licensee may share a single Licensed Premises to operate a dual transporting, logistics, and temporary storage business operation at the same location if the

relevant local jurisdiction permits dual operation at the same location and the two are identically owned.

B. Separation of Co-located Licensed Operations

1. Cultivation Operations. A Licensee that operates an Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation of the facilities, marijuana plants, and marijuana inventory. Record-keeping for the business operations and labeling of product must enable the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of the Medical Marijuana Business from the Retail Marijuana Establishment.

2. Manufacturing Operations. A Licensee that operates a Medical Marijuana-Infused Products Manufacturer and Retail Marijuana Products Manufacturing Facility shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory. Record-keeping for the business operations and labeling of products must enable the Division and Local Jurisdictions/Local Licensing Authorities to clearly distinguish the inventories and business transactions of Medical Marijuana-Infused Product from Retail Marijuana Product.

3. Raw Ingredients May Be Shared. Nothing in this rule prohibits a co-located Retail Marijuana Establishment and Medical Marijuana Business from sharing raw ingredients in bulk, for example flour or sugar, except that Retail Marijuana and Medical Marijuana may not be shared under any circumstances.

4. Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years. Persons operating a Medical Marijuana Center that prohibits the admittance of patients under the age of 21 years and a Retail Marijuana Store may share their Licensed Premises. Such a Medical Marijuana Center Licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances, and upon approval of the State Licensing Authority, the Medical Marijuana Center and the Retail Marijuana Store may share the same entrances and exits. Also under these circumstances, Medical Marijuana and Retail Marijuana and Medical Marijuana-Infused Product and Retail Marijuana Product must be separately displayed on the same sale floor. Record-keeping for the business operations of both must enable the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Products from Retail Marijuana and Retail Marijuana Product. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Stores may be considered a license violation affecting public safety.

5. Retail Stores and Medical Marijuana Centers: Patients Under The Age of 21 Years. A co-located Medical Marijuana Center and Retail Marijuana Store shall maintain separate Licensed Premises, including entrances and exits, inventory, point of sale operations, and record keeping if the Medical Marijuana Center serves patients under the age of 21 years or permits admission of patients under the age of 21 years on its Licensed Premises.

6. Testing Facilities. A co-located Medical Marijuana Testing Facility and Retail Marijuana Testing Facility shall maintain either physical or virtual separation of the facilities and marijuana and products being tested. Record keeping for the business operations and labeling of products must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions

of Medical Marijuana and Medical Marijuana-Infused Product and Retail Marijuana and Retail Marijuana Product.

6.1. Transporters. A co-located Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation of the facilities and Medical Marijuana, Medical Marijuana-Infused Products, Retail Marijuana, and Retail Marijuana Products being transported and stored. Record keeping for the business operations and storage of products must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Product and Retail Marijuana and Retail Marijuana Product.

7. Clear Separation of Inventory. A Licensee that operates both a Medical Marijuana Business and Retail Marijuana Establishment within one location is required to maintain separate and distinct inventory tracking processes for Medical Marijuana and Retail Marijuana inventories. The inventories must be clearly tagged or labeled so that the product can be reconciled to a particular Medical Marijuana Business or a Retail Marijuana Establishment.

Basis and Purpose – R 308

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-301(2) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(f). The purpose of this rule is to establish hours of operation requirements for Retail Marijuana Establishments. The State Licensing Authority modeled this rule after the Colorado Department of Revenue's liquor rules. Based upon written comments and testimony during working groups and public hearings, this rule was amended to remove restrictions on the hours during which initiating the transportation of Retail Marijuana and Retail Marijuana Product is permitted.

R 308 – Selling and Serving, Retail Marijuana and Retail Marijuana Product - Hours of Operation

A. Hours of Operation. Retail Marijuana Establishments shall not sell or serve Retail Marijuana or Retail Marijuana Product at any time other than between the hours of 8:00 am and 12:00 am, Mountain Time, Monday through Sunday.

B. Local Jurisdictions May Further Restrict Hours. Nothing in this rule shall prohibit a local jurisdiction from further restricting hours of operation within its jurisdiction.

R 400 Series – Retail Marijuana Stores

Basis and Purpose – R 401

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b),, 12-43.4-202(3)(b)(IX), 12-43.4-309(7)(a), and 12-43.4-901(4)(f), and sections 12-43.4-402 and 12-43.4-406, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Store to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

R 401 – Retail Marijuana Store: License Privileges

A. Privileges Granted. A Retail Marijuana Store shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share a location with a commonly-owned Medical Marijuana Center. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only sell Retail Marijuana that it has purchased from a Retail Marijuana Cultivation Facility or that the retailer has cultivated itself, after first obtaining a Retail Marijuana Cultivation Facility License. *See* Rule R 501 – Retail Marijuana Cultivation Facility: License Privileges.

D. Authorized Sources of Retail Marijuana Product. A Retail Marijuana Store may only sell Retail Marijuana Product that it has purchased from a Retail Marijuana Products Manufacturing Facility, so long as such product is pre-packaged and labeled upon purchase from the manufacturer.

E. Samples Provided for Testing. A Retail Marijuana Store may provide samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule R 901 – Business Records Required.

F. Authorized On-Premises Storage. A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

G. Authorized Marijuana Transport. A Retail Marijuana Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana and Retail Marijuana Product so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Establishment. Nothing in this rule prevents a Retail Marijuana Store from transporting its own Retail Marijuana and Retail Marijuana Product.

Basis and Purpose – R 402

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(IX), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a.5)(I), 12-43.4-202(3)(b)(IX), 12-43.4-401(4), 12-43.4-901(1), and 12-43.4-901(4)(c) and (g), and sections 12-43.4-105 and 12-43.4-402, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

Regarding quantity limitations on sales, equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower have been included in this rule pursuant to the mandate of House Bill 14-1361. The equivalencies have been determined through utilizing findings of a study that the House Bill authorized. The study, “Marijuana Equivalency in Portion and Dosage,” was authored by the Marijuana Policy Group and is available on the Division’s website. The study was presented to a group of stakeholders during a public meeting as part of the rulemaking process. Although there was disagreement among stakeholders regarding what the equivalencies should be, the general consensus was that the equivalencies must be simple and straightforward, which would facilitate regulatory compliance and serve public safety.

The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Retail Marijuana Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

R 402 – Retail Marijuana Sales: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from selling, giving, or distributing Retail Marijuana or Retail Marijuana Product to persons under 21 years of age.

B. Age Verification. Prior to initiating the sale of Retail Marijuana or Retail Marijuana Product, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. Repealed.

1.5. Repealed.

2. Repealed.

3. A Retail Marijuana Store and its employees are prohibited from selling more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product during a sales transaction to a consumer. Except that non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limitation on sales.

a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to sell Retail Marijuana or Retail Marijuana Product to a customer.

E. Sales over the Internet. A Licensee is prohibited from selling Retail Marijuana or Retail Marijuana Product over the internet. All sales and transfers of possession of Retail Marijuana and Retail Marijuana Product must occur within the Retail Marijuana Store's Licensed Premises.

F. Purchases Only Within Restricted Access Area. A customer must be physically present within the Restricted Access Area of the Retail Marijuana Store's Licensed Premises to purchase Retail Marijuana or Retail Marijuana Product.

G. Evidence of Excise Tax Paid. A Retail Marijuana Store is prohibited from accepting Retail Marijuana from a Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility unless the Retail Marijuana Store Licensee has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., was paid.

H. Prohibited Items. A Retail Marijuana Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

I. Free Product Prohibited. A Retail Marijuana Store may not give away Retail Marijuana or Retail Marijuana Product to a consumer for any reason.

J. Nicotine or Alcohol Prohibited. A Retail Marijuana Store is prohibited from selling Retail Marijuana or Retail Marijuana Product that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 46 or 47 of Title 12, C.R.S.

K. Consumption Prohibited. A Licensee shall not permit the consumption of marijuana or marijuana product on the Licensed Premises.

L. Storage and Display Limitations.

1. A Retail Marijuana Store shall not display Retail Marijuana and Retail Marijuana Product outside of a designated Restricted Access Area or in a manner in which Retail Marijuana or Retail Marijuana Product can be seen from outside the Licensed Premises. Storage of Retail Marijuana and Retail Marijuana Product shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in a Retail Marijuana Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

M. Sale of Expired Product Prohibited. A Retail Marijuana Store shall not sell any expired Retail Marijuana Product.

N. A Retail Marijuana Store shall not sell or give away Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Transporter.

O. A Retail Marijuana Store shall not compensate its employees using performance-based sales incentives. Performance-based incentives that are not sales-based are acceptable. Examples of performance-based incentives that are not sales-based include recognition for providing quality information to consumers, or the duration of the employee's employment with the Retail Marijuana Store.

P. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit. This paragraph (P) is effective beginning October 1, 2017.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

    a. The distinct shape of a human, animal, or fruit; or

b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Establishment. Nothing in this subparagraph (P)(2) alters or eliminates a Licensee's obligation to comply with the requirements of rule R 1001 – Labeling and Packaging Requirements: General Applicability.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

Basis and Purpose – R 404

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(b)(VII), 12-43.4-202(3)(b)(IX), and 12-43.4-402(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V). The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of Retail Marijuana or Retail Marijuana Product.

R 404 – Acceptable Forms of Identification for Retail Sales

A. Valid Identification to Verify Age Only. A Licensee shall refuse the sale of Retail Marijuana or Retail Marijuana Product to anyone, unless such person can produce a form of valid identification showing that the purchaser is 21 years of age or older. If the identification contains a picture and date of birth, the kind and type of identification deemed adequate shall be limited to the following, so long as such identification is valid and not expired:

1. An operator's, chauffeur's or similar type driver's license, issued by any state within the United States, any U.S. Territory;

2. An identification card, issued by any state for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2- 303, C.R.S.;

3. A United States military identification card;

4. A passport; or

5. Enrollment card issued by the governing authority of a federally recognized Indian tribe located in the state of Colorado, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2- 303, C.R.S.

6. Repealed.

B. Affirmative Defense and Licensee's Burden. It shall be an affirmative defense to any administrative action brought against a Licensee for alleged sale to a minor if the minor presented fraudulent identification of the type established in paragraph A above and the Licensee possessed an identification book issued within the past three years, which contained a sample of the specific kind of identification presented for compliance purposes. As an affirmative defense, the burden of proof is on the Licensee to establish by a preponderance of the evidence that the minor presented fraudulent identification.

C. Repealed.

Basis and Purpose – R 405

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-402(1)(e), C.R.S. The purpose of this rule is to establish a Retail Marijuana Store's obligation to account for and track all inventories on the Licensed Premises from the point they are transferred from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter to the point of sale.

R 405 – Retail Marijuana Store: Inventory Tracking System

A. Minimum Tracking Requirement. A Retail Marijuana Store must use Inventory Tracking System to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter through the point of sale, given to a Retail Marijuana Testing Facility, or otherwise disposed of. *See also* Rule R 309 – Retail Marijuana Establishment: Inventory Tracking System. The Retail Marijuana Store must have the ability to reconcile its inventory records with the Inventory Tracking System and the associated transaction history and sale receipts. *See also* Rule R 901 – Business Records Required.

1. A Retail Marijuana Store is prohibited from accepting any Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Retail Marijuana Store must immediately input all Retail Marijuana and Retail Marijuana Product delivered to the Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System at the time of delivery from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter. All delivered Retail Marijuana must be weighed and the scale used shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. A Retail Marijuana Store must account for all variances.

3. A Retail Marijuana Store must reconcile transactions from their point of sale processes and on-hand inventory to the Inventory Tracking System at the close of business each day.

R 500 Series – Retail Marijuana Cultivation Facilities

Basis and Purpose – R 501

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(IX), and 12-43.4-401(4) , and sections 12-43.4-403 and 12-43.4-406, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Cultivation Facility to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 501 – Retail Marijuana Cultivation Facility: License Privileges

A. Privileges Granted. A Retail Marijuana Cultivation Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share a location with a commonly-owned Optional Premises Cultivation Operation. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Cultivation of Retail Marijuana Authorized. A Retail Marijuana Cultivation Facility may Propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana, whether in concentrated form or otherwise.

D. Authorized Sales. A Retail Marijuana Cultivation Facility may only sell Retail Marijuana to a Retail Marijuana Store, Retail Marijuana Products Manufacturing Facility, and other Retail Marijuana Cultivation Facility(-ies).

E. Authorized On-Premises Storage. A Retail Marijuana Cultivation Facility is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premise must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

F. Samples Provided for Testing. A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. See Rule R 901 – Business Records Required.

G. Authorized Marijuana Transport. A Retail Marijuana Cultivation Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Establishment. Nothing in this rule prevents a Retail Marijuana Cultivation Facility from transporting its own Retail Marijuana.

H. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives.

Basis and Purpose – R 502

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(b)(IX), , and 12-43.4-901(2)(a), 12-43.4-901(4)(c) and 12-43.4-901(4)(g), and sections 12-43.4-403 and 12-43.4-406, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Cultivation Facility.

R 502 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Temporary Limitations

1. Repealed.

2. Repealed

B. Packaging and Labeling Standards Required. A Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana that is not packaged and labeled in accordance

with these rules. *See* Rules R 1001 – Packaging Requirements: General Requirements and R 1002 – Labeling Requirements: General Requirements.

C. Sale to Consumer Prohibited. A Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana to a consumer.

D. Consumption Prohibited. A Retail Marijuana Cultivation Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. Excise Tax Paid. A Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., and shall provide verification to purchasers of the Retail Marijuana that any required excise tax was paid.

F. A Retail Marijuana Cultivation Facility shall not sell or give away Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Transporter.

Basis and Purpose – R 503

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(b)(IX) and 12-43.4-403(4), C.R.S. The purpose of this rule is to establish a Retail Marijuana Cultivation Facility's obligation to account for and track all inventories on the Licensed Premises from seed or cutting to transfer or sale to other Retail Marijuana Establishments.

R 503 – Retail Marijuana Cultivation Facility: Inventory Tracking System

A. Minimum Tracking Requirement. A Retail Marijuana Cultivation Facility must use the Inventory Tracking System to ensure its inventories are identified and tracked from the point Retail Marijuana is Propagated from seed or cutting to the point when it is delivered to a Retail Marijuana Establishment. *See* also Rule R 309 –Inventory Tracking System. A Retail Marijuana Cultivation Facility must have the ability to reconcile its Retail Marijuana inventory with the Inventory Tracking System and the associated transaction history and sale receipts. *See* also Rule R 901 – Business Records Required.

B. Transport of Retail Marijuana Without Transport Manifest Prohibited. A Retail Marijuana Cultivation Facility is prohibited from transporting any Retail Marijuana without a valid transport manifest generated by the Inventory Tracking System.

C. Accepting Retail Marijuana Without Transport Manifest Prohibited. Retail Marijuana Facility is prohibited from accepting any Retail Marijuana from another Retail Marijuana Cultivation Facility or Retail Marijuana Transporter without receiving a valid transport manifest generated from the Inventory Tracking System.

D. Input Into Inventory Tracking System Required. A Retail Marijuana Cultivation Facility must immediately input all Retail Marijuana delivered to its Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System at the time of delivery from another Retail Marijuana Cultivation Facility.

E. Inventory Must Be Reconciled Daily. A Retail Marijuana Cultivation Facility must reconcile its transaction history and on-hand inventory to the Inventory Tracking System at the close of business each day.

Basis and Purpose – R 505

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(XI), and 12-43.4-2-2(3)(b)(IX), and sections 12-43.4-403 and 12-43.4-405, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Cultivation Facility and standards for the production of Retail Marijuana Concentrate.

R 505 – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may only produce Water-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated for concentrate production on the current diagram of the Licensed Premises. See Rule R 901- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of a Retail Marijuana Cultivation Facility unless the Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturing Facility license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Retail Marijuana Cultivation Facility produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Owners and Occupational Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon a Retail Marijuana Products Manufacturing Facility that produces Retail Marijuana Concentrate, including all general requirements. *See* Rule R 604– Health and Safety Regulations: Retail Marijuana Products Manufacturing Facility and Rule R 605 – Retail Marijuana Products Manufacturing Facility: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this rule if a Retail Marijuana Cultivation Facility possesses a Retail Marijuana Concentrate other than a Water-Based Retail Marijuana Concentrate on its Licensed Premises unless the Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturing Facility license.

2. Notwithstanding subparagraph (C)(1) of this rule R 505, a Retail Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the transfer of Retail Marijuana flower or trim that failed microbial testing to a Retail Marijuana Products Manufacturing Facility for processing into a Solvent-Based Retail Marijuana Concentrate, and the Retail Marijuana Products Manufacturing Facility transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Retail Marijuana Cultivation Facility.

a. The Retail Marijuana Cultivation Facility shall comply with all requirements in rule R 1507(B.1) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Retail Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to rule R 1501 – Retail Marijuana Testing Program – Contaminant Testing, for potency pursuant to rule R 1503 – Retail Marijuana Testing Program – Potency Testing, and any other

testing required or allowed by the Retail Marijuana Rules or Retail Marijuana Code.

c. Nothing in this rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to rule R 502(E).

R 600 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – R 601

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-306(1)(j), 12-43.4-309(7)(a), 12-43.4-404(1)(a), 12-43.4-404(1)(b), 12-43.4-404(6), 12-43.4-406(1)(c), and 12-43.4-406(4)(b), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Products Manufacturing Facility to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 601 – Retail Marijuana Products Manufacturing Facilities: License Privileges

A. Privileges Granted. A Retail Marijuana Products Manufacturing Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Products Manufacturing Facility may share a location with a commonly owned Medical Marijuana-Infused Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Sales Restricted. A Retail Marijuana Products Manufacturing Facility may only sell Retail Marijuana Product to Retail Marijuana Stores and to other Retail Marijuana Products Manufacturing Facilities.

D. Manufacture of Retail Marijuana Product Authorized. A Retail Marijuana Products Manufacturing Facility may manufacture, prepare, package, store, and label Retail Marijuana Product, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption, such as edible products, ointments, or tinctures.

E. Location Prohibited. A Retail Marijuana Products Manufacturing Facility may not manufacture, prepare, package, store, or label Retail Marijuana Product in a location that is operating as a retail food establishment or a wholesale food registrant.

F. Samples Provided for Testing. A Retail Marijuana Products Manufacturing Facility may provide samples of its Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Products Manufacturing Facility shall maintain the testing results as part of its business books and records.

G. Authorized Marijuana Transport. A Retail Marijuana Products Manufacturing Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana Product so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Establishment. Nothing in this rule prevents a

Retail Marijuana Products Manufacturing Facility from transporting its own Retail Marijuana.

H. A Retail Marijuana Products Manufacturing Facility may compensate its employees using performance-based incentives.

Basis and Purpose – R 602

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII)(K), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(c)(V), 12-43.4-309(7)(a), 12-43.4-404(1)(d), 12-43.4-404(1)(e)(I), 12-43.4-404(4), 12-43.4-404(5), 12-43.4-404(9), 12-43.4-406(1)(a) and 12-43.4-901(2)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Products Manufacturing Facility.

R 602 – Retail Marijuana Products Manufacturing Facility: General Limitations or Prohibited Acts

A. Temporary Sales Limitation. From January 1, 2014 to September 30, 2014, a Retail Marijuana Products Manufacturing Facility shall not sell any of the Retail Marijuana that was cultivated in its commonly-owned Retail Marijuana Cultivation Facility to any other Retail Marijuana Establishment. Such Retail Marijuana shall be used solely in Retail Marijuana Product produced by the Retail Marijuana Products Manufacturing Facility.

B. Packaging and Labeling Standards Required. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana Product that are not properly packaged and labeled. *See* R 1000 Series – Labeling, Packaging, and Product Safety.

C. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule R 1004 – Labeling Requirements: Specific Requirements, Edible Retail Marijuana Product.

D. Sale to Consumer Prohibited. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana or Retail Marijuana Product to a consumer.

E. Consumption Prohibited. A Retail Marijuana Products Manufacturing Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

F. Evidence of Excise Tax Paid. A Retail Marijuana Products Manufacturing Facility is prohibited from accepting Retail Marijuana from a Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility Licensee unless the manufacturer has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., was paid.

G. Adequate Care of Perishable Product. A Retail Marijuana Products Manufacturing Facility must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

H. Homogeneity of Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility must ensure that its manufacturing processes are designed so that the cannabinoid content of any Edible Retail Marijuana Product is homogenous.

I. A Retail Marijuana Products Manufacturing Facility shall not sell or give away Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana or Retail Marijuana Product.

Basis and Purpose – R 603

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XVII), 12-43.4-404 (1)(b), and 12-43.4-406(3), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to require all Retail Marijuana Products Manufacturing Facilities to track all inventory from the point it is received from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter through any manufacturing processes, to the point of sale or transfer to another Retail Marijuana Establishment.

R 603 – Retail Marijuana Products Manufacturing Facility: Inventory Tracking System

A. Minimum Tracking Requirement. A Retail Marijuana Products Manufacturing Facility must use the Inventory Tracking System to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter through wholesale transaction or transfer. *See also* Rule R 309 –Inventory Tracking System. A Retail Marijuana Products Manufacturing Facility must have the ability to reconcile its inventory records with the Inventory Tracking System and the associated transaction history and sale receipts. *See also* Rule R 901 – Business Records Required.

1. A Retail Marijuana Products Manufacturing Facility is prohibited from accepting any Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Retail Marijuana Products Manufacturing Facility must immediately input all Retail Marijuana and Retail Marijuana Product delivered to the Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System at the time of delivery from a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Transporter.

3. A Retail Marijuana Products Manufacturing Facility must reconcile transactions to the Inventory Tracking System at the close of business each day.

Basis and Purpose – R 604

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV)(A), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VII), 12-43.4-202(3)(c)(IX)(A)-(B), and 12-43.4-202(3)(c.5)(I), and section 12-43.4-404, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Products Manufacturing Facilities. It requires all Owners and Occupational Licensees to demonstrate an understanding of basic food handling safety practices or attend a food handler training course prior to manufacturing any Edible Retail Marijuana Product. It sets forth general standards and basic sanitary requirements for Retail Marijuana Products Manufacturing Facilities. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department of Public Health and Environment. This rule also

authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Retail Marijuana Products Manufacturing Facility. This rule explains when a heath and sanitary audit may be deemed necessary and sets forth possible consequences of a Retail Marijuana Establishment's refusal to cooperate or pay for the audit. This rule also establishes requirements for each Edible Retail Marijuana Product manufactured by a Retail Marijuana Products Manufacturing Facility. Product safety requirements were adopted to aid in making Edible Retail Marijuana Products more readily identifiable to the general public outside of their packaging as containing marijuana. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

R 604 – Retail Marijuana Products Manufacturing Facility: Health and Safety Regulations

A. Training

1. Prior to engaging in the manufacture of any Edible Retail Marijuana Product each Owner or Occupational Licensee must:

a. Have a currently valid ServSafe Food Handler Certificate obtained through the successful completion of an online assessment or print exam; or

b. Take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Any course taken pursuant to this rule must last at least two hours and cover the following subjects:

i. Causes of foodborne illness, highly susceptible populations and worker illness;

ii. Personal hygiene and food handling practices;

iii. Approved sources of food;

iv. Potentially hazardous foods and food temperatures;

v. Sanitization and chemical use; and

vi. Emergency procedures (fire, flood, sewer backup).

2. A Retail Marijuana Products Manufacturing Facility must obtain documentation evidencing that each Owner and each Occupational Licensee has successfully completed the examination or course required by this rule and is in good standing. A copy of the documentation must be kept on file at any Licensed Premises where that Owner or Occupational Licensee is engaged in the manufacturing of an Edible Retail Marijuana Product.

B. General Standards

1. A Retail Marijuana Products Manufacturing Facility may be subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to

Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

2. A Retail Marijuana Products Manufacturing Facility that manufacturers edible Retail Marijuana Product shall comply with all kitchen-related health and safety standards of the relevant local jurisdiction and, to the extent applicable, with all Colorado Department of Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

C. Product Safety

Paragraph C is repealed effective October 1, 2016. Licensees shall refer to paragraph (C.5) of this rule for product safety requirements beginning October 1, 2016.

1. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall comply fully with paragraph C of this rule no later than February 1, 2015.

2. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the licensed premises for inspection by the Marijuana Enforcement Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

3. The size of a Standardized Serving Of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings Of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit for sale shall contain more than 100 milligrams of active THC.

4. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving Of Marijuana, the total number of Standardized Servings Of Marijuana, and the total amount of active THC contained within the product.

5. Multiple-Serving Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility must ensure that each single Standardized Serving Of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC. Each demarked Standardized Serving Of Marijuana must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

6. If an Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving Of Marijuana or to make each Standardized Serving Of Marijuana easily separable, then the product must contain no more than 10 mg of active THC per unit of sale, and the Retail Marijuana Products Manufacturing Facility must ensure that the product complies with subparagraph (B)(2)(a) of rule R 1004.5.

C.5. Product Safety.

Paragraph (C.5) is effective beginning October 1, 2016.

1. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the Licensed Premises for inspection by the Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

2. The size of a Standardized Serving Of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings Of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit for sale shall contain more than 100 milligrams of active THC.

3. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving Of Marijuana, the total number of Standardized Servings Of Marijuana, and the total amount of active THC contained within the product.

4. Each single Standardized Serving Of Marijuana shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on at least one side of the Edible Retail Marijuana Product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall:

    a. Be centered either horizontally or vertically on each Standardized Serving Of Marijuana; and

    b. If centered horizontally on a serving, the height and width of the Universal Symbol shall be of a size that is at least 25% of the serving's width, but not less than ¼ inch by ¼ inch; or

    c. If centered vertically on a serving, the height and width of the Universal Symbol shall be of a size that is at least 25% of the serving's height, but not less than ¼ inch by ¼ inch.

5. Notwithstanding the requirement of subparagraph (C.5)(4), an Edible Retail Marijuana Product shall contain no more than 10 mg of active THC per Child-Resistant package and the Retail Marijuana Products Manufacturing Facility must ensure that the product complies with subparagraph (A)(2) of rule R 1004 when:

    a. The Edible Retail Marijuana Product is of the type that is impracticable to mark, stamp, or otherwise imprint with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable; or

    b. The Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving Of Marijuana or to make each Standardized Serving Of Marijuana easily separable.

6. The following categories of Edible Retail Marijuana Product are considered to be per se practicable to mark with the Universal Symbol:

   a. Chocolate

   b. Soft confections

   c. Hard confections or lozenges

   d. Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar)

   e. Pressed pills and capsules

7. The following categories of Edible Retail Marijuana Product are considered to be per se impracticable to mark with the Universal Symbol:

   a. Repealed.

   b. Loose bulk goods (e.g. granola, cereals, popcorn)

   c. Powders

8. Repealed.

8.1. Liquid Edible Retail Marijuana Product.

   a. Pursuant to 12-43.4-404(4)(b), C.R.S., Liquid Edible Retail Marijuana Products are impracticable to mark with the Universal Symbol and are exempt from the provision in subparagraph (C.5)(5) of this rule R 604 that requires Edible Retail Marijuana Products that are impracticable to mark with the Universal Symbol to contain 10mg or less active THC per Child-Resistant package.

   b. This exemption permits the manufacture and sale of Multi-Serving Liquid Edible Retail Marijuana Products so long as the product is:

      i. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10mg of active THC per serving, with no more than 100mg of active THC total per Child-Resistant package; and

      ii. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

9. Multiple-Serving Edible Retail Marijuana Product.

   a. A Retail Marijuana Products Manufacturing Facility must ensure that each single Standardized Serving Of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.

   b. Each demarked Standardized Serving Of Marijuana must be easily separable in order to allow an average person 21 years of age and over

to physically separate, with minimal effort, individual servings of the product.

c. Each single Standardized Serving Of Marijuana contained in a Multiple-Serving Edible Retail Marijuana Product shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall comply with the requirements of subparagraph (C.5)(4) of this rule R 604.

d. A Multiple-Serving Edible Retail Marijuana Product that is a Liquid Edible Retail Marijuana Product shall comply with the requirements in subsubparagraph (C.5)(8.1)(b) of this rule R 604 and is exempt from subsubparagraphs a-c of this subparagraph (C.5)(9).

10. Remanufactured Products Prohibited. A Retail Marijuana Product Manufacturing Facility shall not utilize a commercially manufactured food product as its Edible Retail Marijuana Product. The following exceptions to this prohibition apply:

a. A food product that was commercially manufactured specifically for use by the Retail Marijuana Product Manufacturing Facility Licensee to infuse with marijuana shall be allowed. The Licensee shall have a written agreement with the commercial food product manufacturer that declares the food product's exclusive use by the Retail Marijuana Product Manufacturing Facility.

b. Commercially manufactured food products may be used as ingredients in a Retail Marijuana Product Manufacturing Facility's Edible Retail Marijuana product so long as: (1) they are used in a way that renders them unrecognizable as the commercial food product in the final Edible Retail Marijuana Product, and (2) the Retail Marijuana Product Manufacturing Facility does not state or advertise to the consumer that the final Edible Retail Marijuana Product contains the commercially manufactured food product.

11. Trademarked Food Products. Nothing in this rule alters or eliminates a Retail Marijuana Product Manufacturing Facility's responsibility to comply with the trademarked food product provisions required by the Retail Code per 12-43.4-404(1)(e)(I-III), C.R.S.

12. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit. This subparagraph (C.5)(12) is effective beginning October 1, 2017.

a. The production and sale of Edible Retail Marijuana Products in the following shapes is prohibited:

i. The distinct shape of a human, animal, or fruit; or

ii. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

b. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Establishment. Nothing in this subsubparagraph (C.5)(12)(b) alters or eliminates a Licensee's obligation

to comply with the requirements of rule R 1001 – Labeling and Packaging Requirements: General Applicability.

c. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

d. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

D. General Sanitary Requirements. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for Retail Marijuana or Retail Marijuana Product shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and/or in Retail Marijuana Product preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with preparation of Retail Marijuana or Retail Marijuana Product shall conform to hygienic practices while on duty, including but not limited to:

a. Maintaining adequate personal cleanliness;

b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work, prior to engaging in the production of a Retail Marijuana Concentrate or manufacture of a Retail Marijuana Product and at any other time when the hands may have become soiled or contaminated; and

c. Refraining from having direct contact with preparation of Retail Marijuana or Retail Marijuana Product if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Retail Marijuana or Retail Marijuana Product;

5. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana or Retail Marijuana Product are exposed;

6. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

7. That there is adequate safety-type lighting in all areas where Retail Marijuana or Retail Marijuana Product are processed or stored and where equipment or utensils are cleaned;

8. That the Licensed Premises provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

9. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

10. That all contact surfaces, including utensils and equipment used for the preparation of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Retail Marijuana Products Manufacturing Facility and used in accordance with labeled instructions;

11. That toxic cleaning compounds, sanitizing agents, solvents used in the production of Retail Marijuana concentrate and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation or ordinance;

12. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises needs;

13. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable and waste water lines;

14. That each Retail Marijuana Products Manufacturing Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;

15. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

16. That Retail Marijuana or Retail Marijuana Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

17. That storage and transport of finished Retail Marijuana Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any container.

E. Standard Operating Procedures

1. A Retail Marijuana Products Manufacturing Facility must have written standard operating procedures for each category of Retail Marijuana Concentrate and type of Retail Marijuana Product that it produces.

a. All standard operating procedures for the production of a Retail Marijuana Concentrate must follow the requirements in Rule R 605.

b. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Retail Marijuana Products Manufacturing Facility.

2. If a Retail Marijuana Products Manufacturing Facility makes a Material Change to its standard Retail Marijuana Concentrate or Retail Marijuana Product production process, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

F. Additives. A Retail Marijuana Products Manufacturing Facility shall not include any Additive that is toxic within a Retail Marijuana Product; nor include any Additive for the purposes of making the product more addictive, appealing to children or misleading to consumers.

G. Independent Health and Sanitary Audit

1. State Licensing Authority May Require An Independent Health and Sanitary Audit

a. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Retail Marijuana Products Manufacturing Facility to undergo such an audit. The scope of the audit may include, but need not be limited to, whether the Retail Marijuana Products Manufacturing Facility is in compliance with the requirements set forth in this rule or other applicable food handling laws, rules or regulations or compliance with the concentrate production rules in Rule R 605 or other applicable laws, rules and regulations.

b. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Retail Marijuana Products Manufacturing Facility. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Retail Marijuana Products Manufacturing Facility will be responsible for all costs associated with the independent health and sanitary audit.

2. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

a. A Retail Marijuana Products Manufacturing Facility does not provide requested records related to the food handling training required for Owners or Occupational Licensees engaged in the production of Edible Retail Marijuana Product to the Division;

b. A Retail Marijuana Products Manufacturing Facility does not provide requested records related to the production of Retail Marijuana Concentrate, including but not limited to, certification of its Licensed Premises, equipment or standard operating procedures, training of Owners or Occupational Licensees, or Production Batch specific records;

c. The Division has reasonable grounds to believe that the Retail Marijuana Products Manufacturing Facility is in violation of one or more of the requirements set forth in this rule or Rule R 605;

d. The Division has reasonable grounds to believe that the Retail Marijuana Products Manufacturing Facility was the cause or source of contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product; or

e. Multiple Production Batches of Retail Marijuana Concentrate or Retail Marijuana Product produced by the Retail Marijuana Products Manufacturing Facility failed contaminant testing.

3. Compliance Required. A Retail Marijuana Products Manufacturing Facility must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this rule.

4. Suspension of Operations

a. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the public health, safety or welfare imperatively requires emergency action and incorporates such findings into its order, it may order summary suspension of the Retail Marijuana Products Manufacturing Facility's license. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

b. Prior to or following the issuance of such an order, the Retail Marijuana Products Manufacturing Facility may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

i. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Retail Marijuana Products Manufacturing Facility may continue to care for its inventory and conduct any necessary internal business operations but it may not sell, transfer or wholesale

Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product to another Retail Marijuana Establishment during the period of time specified in the agreement. Depending on the condition of the Retail Marijuana Products Manufacturing Facility and required remedial measures, the Division may permit a Retail Marijuana Products Manufacturing Facility to produce Retail Marijuana Concentrate or manufacture Retail Marijuana Product while operations have been suspended.

H. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

R 700 Series – Retail Marijuana Testing Facilities

Basis and Purpose – R 701

The statutory authority for this rule is found at subsections12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(IV), 12-43.4-309(7)(a), 12-43.4-402(4), 12-43.4-403(5), 12-43.4-404(6), 12-43.4-405, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Testing Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 701 ± Retail Marijuana Testing Facilities: License Privileges

A. Privileges Granted. A Retail Marijuana Testing Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Retail Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises.

C. Testing of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Testing Facility may accept Samples of Retail Marijuana or Retail Marijuana Product from Retail Marijuana Establishments for testing and research purposes only. The Division may require a Retail Marijuana Establishment to submit a sample of Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Testing Facility upon demand.

D. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 12-43.4-404, C.R.S. and Rule R 601 – Retail Marijuana Manufacturing Facilities: License Privileges.

E. Medical Marijuana Occupational License for Testing and Research. This paragraph is repealed effective July 1, 2016. Licensees shall refer to the M 700 Series – Medical Marijuana Testing Facilities, located in 1 CCR 212-1, for the testing and research of Medical Marijuana and Medical Marijuana-Infused Product beginning July 1, 2016. A Retail Marijuana Testing Facility that has applied for and obtained a Medical Marijuana Occupational License for Testing and Research may accept Samples of Medical Marijuana or Medical Marijuana-Infused Product from Medical Marijuana Businesses for testing and research purposes only.

F. Sending Samples to Other Licensed and Certified Retail Marijuana Testing Facility. A Retail Marijuana Testing Facility may send Samples to another Retail Marijuana Testing Facility for testing. All laboratory reports provided to a Retail Marijuana Establishment must identify the Retail Marijuana Testing Facility that actually conducted the test.

G. Testing of Registered and Tracked Industrial Hemp Authorized.

1. A Retail Marijuana Testing Facility may accept and test samples of Industrial Hemp as regulated by Article 61 of Title 35, C.R.S. The samples must be submitted by a registered cultivator and tracked through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to 35-61-105.5, C.R.S.

2. Only Retail Marijuana Testing Facilities that are certified to test in the category of THC and other Cannabinoid potency shall be permitted to test samples of Industrial Hemp as regulated by Article 61 of Title 35, C.R.S.

3. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test samples of Industrial Hemp.

H. Authorized Marijuana Transport. A Retail Marijuana Testing Facility is authorized to utilize a licensed Retail Marijuana Transporter to transport Samples of Retail Marijuana and Retail Marijuana Product for testing, in accordance with the Retail Marijuana Code and Retail Marijuana Rules, between the originating Retail Marijuana Establishment requesting testing services and the destination Retail Marijuana Testing Facility performing testing services. Nothing in this rule requires a Retail Marijuana Testing Facility, Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturing Facility to utilize a Retail Marijuana Transporter to transport Samples of Retail Marijuana or Retail Marijuana Product for testing.

Basis and Purpose – R 702

The statutory authority for this rule is found at subsections 12-43.3-901(2), 12-43.4-105, 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(b)(IX), 12-43.4-405, 12-43.4-901, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Testing Facility.

R 702 – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is an Owner of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, Retail Marijuana Store, Medical Marijuana Center, Optional Premises Cultivation, or a Medical Marijuana Infused-Products Manufacturing Facility shall not be an Owner of a Retail Marijuana Testing Facility.

B. Sale of Marijuana Prohibited. A Retail Marijuana Testing Facility is prohibited from selling, distributing, or transferring Retail Marijuana, Retail Marijuana Product, Medical Marijuana, or Medical Marijuana-Infused Product to another Retail Marijuana Establishment, a Medical Marijuana Business, or a consumer, except that a Retail Marijuana Testing Facility may transfer a Sample to another Retail Marijuana Testing Facility.

C. Destruction of Received Retail Marijuana. A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not transferred to another Retail

Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule R 307 – Waste Disposal.

D. Consumption Prohibited. A Retail Marijuana Testing Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. Sample Rejection. A Retail Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that that the sample may have been tampered with.

F. Retail Marijuana Establishment Requirements Applicable. A Retail Marijuana Testing Facility shall be considered Licensed Premises. A Retail Marijuana Testing Facility shall be subject to all requirements applicable to Retail Marijuana Establishments.

G. Retail Marijuana Testing Facility – Inventory Tracking System Required. A Retail Marijuana Testing Facility must use the Inventory Tracking System to ensure its Samples are identified and tracked from the point they are transferred from a Retail Marijuana Establishment or Medical Marijuana Business through the point of destruction or disposal. *See also* Rule R 309 – Retail Marijuana Establishment: Inventory Tracking System. The Retail Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See also* Rule R 901 – Business Records Required.

H. Testing of Unregistered or Untracked Industrial Hemp Prohibited. A Retail Marijuana Testing Facility shall not accept or test samples of Industrial Hemp that are not regulated by Article 61 of Title 35, C.R.S., are submitted by an unregistered cultivator, or are not tracked through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to 35-61-105.5, C.R.S.

I. A Retail Marijuana Testing Facility shall not sell or give away Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Transporter, and shall not buy, or receive complimentary Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Transporter.

Basis and Purpose – R 703

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(V), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), and section 12-43.4-405, C.R.S. The purpose of this rule is to establish a frame work for certification for Retail Marijuana Testing Facilities.

R 703 – Retail Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Retail Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Residual solvents;

2. Repealed.

3. Repealed.

4. Repealed.

5. Microbials

6. Repealed

7. THC and other Cannabinoid potency.

8. Chemical Contaminants; and

9. Biological Contaminants.

B. Certification Procedures. The Retail Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this rule.

1. Certification Inspection. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Retail Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, proficiency testing, quality control, quality assurance, security, chain of custody, specimen retention, space, records, and results reporting.

3. Personnel Qualifications

a. Laboratory Director. A Retail Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule R 704 – Retail Marijuana Testing Facilities: Personnel.

b. Employee Competency. A Retail Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Retail Marijuana Testing Facility must have a written procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign and date the revised version prior to use.

b. A Retail Marijuana Testing Facility must maintain a copy of all Standard Operating Procedures to include any revised copies for a minimum of three years. *See* Rule R 901 – Business Records Required.

5. Analytical Processes. A Retail Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Retail Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Retail Marijuana Testing Facility must successfully participate in a Division approved proficiency testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Retail Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. Space. A Retail Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.

11. Records. A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years.

12. Results Reporting. A Retail Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner.

13. Conduct While Seeking Certification. A Retail Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner. A violation of this rule may be considered a license violation affecting public safety.

Basis and Purpose – R 704

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(b)(IX), and section 12-43.4-405, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Retail Marijuana Testing Facility.

R 704 – Retail Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Retail Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Retail Marijuana Testing Facility.

2. The laboratory director for a Retail Marijuana Testing Facility must meet one of the following qualification requirements:

   a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

   b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

   c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule R 901 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Retail Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in a Division approved proficiency testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process specimens, perform test procedures and report test results promptly and proficiently, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for specimen processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

C.5 Change in Laboratory Director. In the event that the laboratory director leaves employment at the Retail Marijuana Testing Facility, the Retail Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Marijuana Enforcement Division within seven days of the laboratory director’s departure; and

2. Designate an interim laboratory director within seven days of the laboratory director's departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Retail Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (C.5)(3), the Retail Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Retail Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

D. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the three years of full-time laboratory experience.

E. Laboratory Testing Analyst

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing.

2. Responsibilities. In order to independently perform any test for a Retail Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

Basis and Purpose – R 712

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-202(3)(c)(VII), and 12-43.4-405, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the portion of the Division's Mandatory Testing and Random Sampling program that is applicable to Retail Marijuana Testing Facilities. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine, must be at least plus or minus 15 percent.

R 712 – Retail Marijuana Testing Facilities: Sampling and Testing Program

A. Division Authority. The Division may elect to require that a Test Batch be submitted to a specific Retail Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

B. Test Batches

1. Retail Marijuana and Retail Marijuana Concentrate. A Retail Marijuana Testing Facility must establish a standard minimum weight of Retail Marijuana and Retail

Marijuana Concentrate that must be included in a Test Batch for every type of test that it conducts.

2. Retail Marijuana Product. A Retail Marijuana Testing Facility must establish a standard number of finished product(s) it requires to be included in each Test Batch of Retail Marijuana Product for every type of test that it conducts.

C. Rejection of Test Batches and Samples

1. A Retail Marijuana Testing Facility may not accept a Test Batch that is smaller than its standard minimum amount.

2. A Retail Marijuana Testing Facility may not accept a Test Batch or Sample that it knows was not taken in accordance with these rules or any additional Division sampling procedures or was not collected by Division personnel.

D. Notification of Retail Marijuana Establishment. If Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product failed a contaminant test, then the Retail Marijuana Testing Facility must immediately notify the Retail Marijuana Establishment that submitted the sample for testing and report the failure in accordance with all Inventory Tracking System procedures.

E. Permissible Levels of Contaminants. If Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product is found to have a contaminant in levels exceeding those established as permissible under this rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this rule, the Division reserves the right to determine, upon good cause and reasonable grounds, that a particular Test Batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

1. Microbials (Bacteria, Fungus)

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
–Shiga-toxin producing Escherichia coli (STEC)*- Bacteria	< 1 Colony Forming Unit (CFU)	Flower; Retail Marijuana Products; Water- and Food-Based Concentrates
Salmonella species* – Bacteria	< 1 Colony Forming Unit (CFU)	
Total Yeast and Mold	< 10^4 Colony Forming Unit (CFU)	

*Testing facilities should contact the Colorado Department of Public Health and Environment when STEC and Salmonella are detected beyond the acceptable limits.

2. Residual Solvents

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
Butanes	< 5,000 Parts Per Million (PPM)	Solvent-Based Concentrates
Heptanes	< 5,000 Parts Per Million (PPM)	
Benzene**	< 2 Parts Per Million (PPM)	
Toluene**	< 890 Parts Per Million (PPM)	
Hexane**	< 290 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< 2,170 Parts Per Million (PPM)	
Any solvent not permitted for use pursuant to Rule R 605.	None Detected	

** Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use per Rule R 605, limits have been listed here accordingly.

3. Metals

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
Metals (Arsenic, Cadmium, Lead and Mercury)	Lead – Max Limit: < 1.0 ppm Arsenic – Max Limit: < 0.4 ppm Cadmium – Max Limit: < 0.4 ppm Mercury – Max Limit: < 0.2 ppm	Flower; Water-, Food-, and Solvent-Based Concentrates

4. Other Contaminants

Pesticide	If testing identifies the use of a banned Pesticide or the improper application of a permitted Pesticide, then that Test Batch shall be considered to have failed contaminant testing.
Chemicals	If Test Batch is found to contain levels of any chemical that could be toxic if consumed, then the Division may determine that the Test Batch has failed contaminant testing.
Microbials	If Test Batch is found to contain levels of any microbial that could be toxic if consumed, then the Division may determine that the Test Batch has failed contaminant testing.

5. Division Notification. A Retail Marijuana Testing Facility must notify the Division if a Test Batch is found to contain levels of a contaminant not listed within this rule that could be injurious to human health if consumed.

F. Potency Testing

1. Cannabinoids Potency Profiles. A Retail Marijuana Testing Facility may test and report results for any cannabinoid provided the test is conducted in accordance with the Division's Retail Marijuana Testing Facility Certification Policy Statement.

2. Reporting of Results

a. For potency tests on Retail Marijuana and Retail Marijuana Concentrate, results must be reported by listing a single percentage concentration for each cannabinoid that represents an average of all samples within the Test Batch.

b. For potency tests conducted on Retail Marijuana Product, whether conducted on each individual production batch or via Process Validation per rule R 1503, results must be reported by listing the total number of milligrams contained within a single Retail Marijuana Product unit for sale for each cannabinoid and affirming the THC content is homogenous.

3. Dried Flower. All potency tests conducted on Retail Marijuana must occur on dried and cured Retail Marijuana that is ready for sale.

4. Failed Potency Tests for Retail Marijuana Products

a. If an individually packaged Edible Retail Marijuana Product contained within a Test Batch is determined to have more than 100 mgs of THC within it, then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (F)(5) of this rule R 712 shall apply to potency testing.

b. If the THC content of a Marijuana Product is determined through testing to not be homogenous, then it shall be considered to have failed potency testing. A Retail Marijuana Product shall be considered to not be homogenous if 10% of the infused portion of the Retail Marijuana Product contains more than 20% of the total THC contained within entire Retail Marijuana Product.

5. Potency Variance. A potency variance of no more than plus or minus 15% is allowed.

R 800 Series – Transport and Storage

Basis and Purpose – R 801

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X),, 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(c)(IV), 12-43.4-309(4), and 12-43.4-401(1), and section 12-43.4-406 C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the transport and delivery of Retail Marijuana and Retail Marijuana Product between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

R 801 – Transport of Retail Marijuana, Retail Marijuana Vegetative Plants, and Retail Marijuana Product: All Retail Marijuana Establishments

A. Persons Authorized to Transport. The only Persons authorized to transport Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product are those licensed by the State Licensing Authority pursuant to sections 12-43.3-401 (when applicable) and 12-43.4-401, C.R.S.; including those holding Owner and Occupational Licenses. An individual who does not possess a current and valid Owner or Occupational License from the State Licensing Authority may not transport Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises.

1. Retail Marijuana and Retail Marijuana Product. Retail Marijuana and Retail Marijuana Product shall only be transported between Licensed Premises and between Licensed Premises and a permitted off-premises storage facility. Licensees transporting Retail Marijuana and Retail Marijuana Product are responsible for ensuring that all Retail Marijuana and Retail Marijuana Product are secured at all times during transport.

2. Retail Marijuana Vegetative Plants. Retail Marijuana Vegetative plants shall only be transported between Licensed Premises due to an approved change of location pursuant to rule R 206 – Changing Location of Licensed Premises: Retail Marijuana Establishments. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed.

C. Inventory Tracking System-Generated Transport Manifest Required. A Licensee may only transport Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product if he or she has a hard copy of an Inventory Tracking System -generated transport manifest that contains all the information required by this rule and shall be in the format prepared by the State Licensing Authority.

1. Retail Marijuana and Retail Marijuana Product. A Licensee may transport Retail Marijuana or Retail Marijuana Product from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific licensed locations.

2. Retail Marijuana Vegetative Plants. A Licensee shall transport Retail Marijuana Vegetative plants only from the originating Licensed Premises to the destination Licensed Premises due to a change of location that has been approved by the Division.

D. Motor Vehicle Required. Transport of Retail Marijuana and Retail Marijuana Product shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee. Except that when a rental truck is required for transporting Medical Marijuana Vegetative plants, Colorado motor vehicle registration is not required.

E. Documents Required During Transport. Transport of Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product shall be accompanied by a copy of the originating Retail Marijuana Establishment's business license, the driver's valid Owner or Occupational License, the driver's valid motor vehicle operator's license, and all required vehicle registration and insurance information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Retail Marijuana , Retail Marijuana Vegetative plants, and Retail Marijuana Product on any public road within the state of Colorado as authorized in this rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transport of Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product.

G. Preparation of Retail Marijuana and Retail Marijuana Product for Transport

1. Final Weighing and Packaging. A Retail Marijuana Establishment shall comply with the specific rules associated with the final weighing and packaging of Retail Marijuana and Retail Marijuana Product before such items are prepared for transport pursuant to this rule. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S.

2. Preparation in Limited Access Area. Retail Marijuana and Retail Marijuana Product shall be prepared for transport in a Limited Access Area, including the packing and labeling of Shipping Containers.

3. Shipping Containers. Sealed packages or Containers must be placed in Shipping Containers. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, local jurisdictions, and state and local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

G.5. Required RFID Tags for Retail Marijuana Vegetative Plants. Each Retail Marijuana Vegetative plant that is transported pursuant to this rule must have a RFID tag affixed to it prior to transport.

H. Creation of Records and Inventory Tracking

1. Use of Inventory Tracking System -Generated Transport Manifest.

a. Retail Marijuana and Retail Marijuana Product. Licensees who transport Retail Marijuana or Retail Marijuana Product shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the Licensed Premises for destinations to other licensed locations. The transport manifest may either reflect all deliveries for multiple locations within a single trip or separate transport manifests may reflect each single delivery. In either case, no inventory shall be transported without an Inventory Tracking System -generated transport manifest.

a.1 Use of a Retail Marijuana Transporter. In addition to subsubparagraph (H)(1)(a), Licensees shall also follow the requirements of this subsubparagraph (H)(1)(a.1) when a Licensee utilizes the services of a Retail Marijuana Transporter.

i. When a Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Testing Facility utilizes a Retail Marijuana Transporter for transporting its Retail Marijuana or Retail Marijuana Products, the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee who will be receiving the Retail Marijuana or Retail Marijuana Products.

ii. A Retail Marijuana Transporter is prohibited from being listed as the final destination Licensee.

iii. A Retail Marijuana Transporter shall not alter the information of the final destination Licensee after the information has been entered on the Inventory Tracking System-generated transport manifest by the originating Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Testing Facility.

iv. If the Retail Marijuana Transporter is not delivering the originating Licensee's Retail Marijuana or Retail Marijuana Product directly to the final destination Licensee, the Retail Marijuana Transporter shall communicate to the originating Licensee which of the Retail Marijuana Transporter's Licensed Premises or off-premises storage facilities will receive and temporarily store the Retail Marijuana or Retail Marijuana Product. The originating Licensee shall input the Retail Marijuana Transporter's location address and license number on the Inventory Tracking System-generated transport manifest.

b. Retail Marijuana Vegetative Plants.

i. Licensees who transport Retail Marijuana Vegetative plants shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the originating Licensed

Premises to be transported to the destination Licensed Premises due to a change of location approved by the Division pursuant to rule R 206.

ii. Retail Marijuana Transporters are permitted to transport Retail Marijuana Vegetative Plants on behalf of other Licensees due to a change of location approved by the Division pursuant to rule R 206. The Retail Marijuana Transporter shall transport the Retail Marijuana Vegetative Plants directly from the originating Licensed Premises to the final destination Licensed Premises without any stops in between.

2. Copy of Transport Manifest to Receiver. A Licensee shall provide a copy of the transport manifest to each Retail Marijuana Establishment receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate Inventory Tracking System-generated transport manifest for each receiving Retail Marijuana Establishment.

3. The Inventory Tracking System-generated transport manifest shall include the following:

a. Departure date and approximate time of departure;

b. Name, location address, and license number of the originating Retail Marijuana Establishment;

c. Name, location address, and license number of the destination Retail Marijuana Establishment(s);

c.1 Name, location address, and license number of the Retail Marijuana Transporter if applicable pursuant to R 801(H)(1)(a.1)(iv).

d. Product name and quantities (by weight or unit) of each product to be delivered to each specific destination location(s);

e. Arrival date and estimated time of arrival;

f. Delivery vehicle make and model and license plate number; and

g. Name, Occupational License number, and signature of the Licensee accompanying the transport.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Retail Marijuana Establishment shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule R 901 – Business Records Required.

1. Responsibilities of Originating Licensee.

a. Retail Marijuana and Retail Marijuana Product. Prior to departure, the originating Retail Marijuana Establishment shall adjust its records to reflect the removal of Retail Marijuana or Retail Marijuana Product. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-

14-127, C.R.S. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

b. Retail Marijuana Vegetative Plants. Prior to departure, the originating Retail Marijuana Cultivation Facility shall adjust its records to reflect the removal of Retail Marijuana Vegetative plants. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Receiving Licensee.

a. Retail Marijuana and Retail Marijuana Product. Upon receipt, the receiving Licensee shall ensure that the Retail Marijuana or Retail Marijuana Product received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the inventory records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest. Retail Marijuana Transporters shall comply with all requirements of this subsubparagraph (J)(2)(a) except that they are not required to weigh Retail Marijuana or Retail Marijuana Products.

b. Retail Marijuana Vegetative Plants. Upon receipt, the receiving Licensee shall ensure that the Retail Marijuana Vegetative plants received are as described in the transport manifest, accounting for all RFID tags and each associated plant, and shall immediately adjust its records to reflect the receipt of inventory.

3. Discrepancies. A receiving Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in the Inventory Tracking System and in any relevant business records.

K. Adequate Care of Perishable Retail Marijuana Product. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Product during transport.

Basis and Purpose – R 802

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XVII), 12-43.4-406(2), 12-43.4-701(2), C.R.S. The purpose of this rule is to establish that Retail Marijuana or Retail Marijuana Product may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage facility permit..

R 802 – Off-Premises Storage of Retail Marijuana and Retail Marijuana Product: All Retail Marijuana Establishments

A. Off-Premises Storage Permit Authorized. A Retail Marijuana Store, Retail Marijuana Products Manufacturing Facility, and a Retail Marijuana Cultivation Facility may only store Retail Marijuana or Retail Marijuana Product in their Licensed Premises or in their

one permitted off-premises storage facility. Retail Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Retail Marijuana Establishment must apply on current Division forms and pay any applicable fees. A Retail Marijuana Transporter may only apply for and hold an off-premises storage permit in a local jurisdiction that permits the operation of Retail Marijuana Stores.

C. Extension of Licensed Premises. A permitted off-premises storage facility shall constitute an extension of the Retail Marijuana Establishment's Licensed Premises, subject to all applicable Retail Marijuana regulations.

D. Limitation on Inventory to be Stored. A Retail Marijuana Store, Retail Marijuana Products Manufacturing Facility, and a Retail Marijuana Cultivation Facility may only have upon the permitted off-premises storage facility Retail Marijuana or Retail Marijuana Product that are part of the particular Retail Marijuana Establishment's finished goods inventory. The aforementioned Licensees may not share the premises with, or store inventory belonging to, a Medical Marijuana Business or Retail Marijuana Establishment that is not commonly-owned.

E. Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Retail Marijuana Establishment may not sell, cultivate, manufacture, process, test, or consume any Retail Marijuana or Retail Marijuana Product within the premises of the permitted off-premises storage facility.

F. Display of Off-premises Storage Permit and License. The off-premises storage facility permit and a copy of the Retail Marijuana Establishment's license must be displayed in a prominent place within the permitted off-premises storage facility.

G. Local Jurisdiction Approval

1. Prior to submitting an application for an off-premises storage facility permit, the Retail Marijuana Establishment must obtain approval or acknowledgement from the relevant local jurisdiction.

2. A copy of the relevant local jurisdiction's approval or acknowledgement must be submitted by the Retail Marijuana Establishment in conjunction with its application for an off-premises storage facility.

3. No Retail Marijuana or Retail Marijuana Product may be stored within a permitted storage facility until the relevant local jurisdiction has been provided a copy of the off-premises storage facility permit.

4. Any off-premises storage permit issued by the Division shall be conditioned upon the Retail Marijuana Establishment's receipt of all required local jurisdiction approvals or acknowledgments.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video, security and lock requirements applicable to a Licensed Premises. *See* Rules R 305 – Security Alarm and Lock Standards and R 306 – Video Surveillance.

I. Transport to and from a Permitted Off-Premises Storage Facility. A Licensee must comply with the provisions of Rule R 801 - Transport of Retail Marijuana and Retail Marijuana Product when transporting any Retail Marijuana or Retail Marijuana Product to and from a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Retail Marijuana Establishment shall utilize the Inventory Tracking System to track its inventories from the point of transfer to or from a permitted off-premises storage facility. *See* Rules R 309 – Retail Marijuana Establishment: Inventory Tracking System and R 901 – Business Records Required.

K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in 35-14-127, C.R.S.

L. Adequate Care of Perishable Retail Marijuana Product. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Product and shall utilize adequate storage facilities and transport methods.

M. Consumption Prohibited. A Retail Marijuana Establishment shall not permit the consumption of marijuana or marijuana product on the premises of its permitted off-premises storage facility.

R 900 Series – Business Records

Basis and Purpose – R 905

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(d), 12-43.4-202(3)(a)(XIII), 12-43.4-202(3)(a)(XIV), 12-43.4-202(3)(b)(IX), and 12-43.4-306(1)(f), C.R.S. *See also* articles 21, 22, 26 and 28.8 of title 39, C.R.S. The purpose of this rule is to clarify the Division's authority to provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee, for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes. Such information sharing is for a purpose authorized by the Retail Code.

R 905 – Department Information Access

A. Department Access to Reports or Other Information. The Division may provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes.

B. Confidentiality. Reports or other information provided to or accessed by taxation divisions within the Department for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes shall be considered part of the Department's investigation pursuant to subsection 39-21-113(4)(a), C.R.S., and the Division shall continue to maintain such records and information in its possession or control as confidential pursuant to subsection 12-43.3-202(1)(d) and 12-43.4-202(2)(d), C.R.S.

R 1000 Series – Labeling, Packaging, and Product Safety

Basis and Purpose – R 1001

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X) , 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(I), 12-43.4-202(3)(c)(III), 12-43.3-402(2)(a), 12-43.4-404(4)(a), 12-43.4-404(6), and 12-43.4-901(4)(b), C.R.S. The State Licensing Authority finds it essential to regulate and establish labeling and secure packaging requirements for Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product. The purpose of this rule, and the rules in this series, is to ensure that all Retail Marijuana and Retail Marijuana Product are sold and delivered to lawful consumers in packaging that is not easily opened by children. Further, the State Licensing Authority believes based on written and oral comments it received through the rulemaking process that prohibiting labels that appeal to or are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. One of the State Licensing Authority's primary goals is to prevent underage marijuana use. The State Licensing Authority has a compelling state interest in the reduction and prevention of accidental marijuana consumption by children. This can be achieved through avoidance of packaging designed to appeal to children and avoidance of use of the word "candy" on packaging, labeling and product. Children generally have a strong attraction to and interest in candy. "Candy" is one of the first words children learn to speak. Children rely upon packaging to deduce a product's contents. This rule is in the interest of the health of the people of Colorado and is necessary for the stringent and comprehensive administration of the Retail Code. The State Licensing Authority is adopting this rule as a narrowly-tailored way to reduce or prevent accidental ingestion of Retail Marijuana or Retail Marijuana Products by children and others.

R 1001 – Labeling and Packaging Requirements: General Applicability

A. Ship Product Ready for Sale. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility may package smaller quantities of Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Container prior to transport, provided the Containers are placed within a larger package that has an RFID tag and all required labels affixed to it. This larger package of Containers may serve as the Shipping Container. Licensees shall ensure that either each package of Retail Marijuana or Retail Marijuana Product placed within a Shipping Container has an RFID tag and all required labels affixed to each package, or the Shipping Container itself must have an RFID tag and all required labels affixed to it for the Retail Marijuana or Retail Marijuana Product contained within the Shipping Container. If the Licensee elects to place the RFID tag and all required labels on the Shipping Container, the Shipping Container shall contain only one package, Harvest Batch, or Production Batch of Retail Marijuana or Retail Marijuana Product. If a Shipping Container holds multiple packages, each individual package shall be affixed with an RFID tag and all required labels. See Rule R 309 – Inventory Tracking System and Rule R 801 – Transport of Retail Marijuana and Retail Marijuana Product.

B. Inventory Tracking Compliance.

1. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must package all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in accordance with all Inventory Tracking System rules and procedures.

C. Packaging May Not Be Designed to Appeal to Children. A Retail Marijuana Establishment shall not place any content on a Container holding Retail Marijuana, Retail Marijuana Concentrate, or a Retail Marijuana Product in a manner that specifically targets individuals under the age of 21, including but not limited to, cartoon characters or similar images.

D. Health and Benefit Claims. Labeling text on a Container may not make any false or misleading statements regarding health or physical benefits to the consumer.

E. Font Size. Labeling text on a Container must be no smaller than 1/16 of an inch.

F. Use of English Language. Labeling text on a Container must be clearly written or printed and in the English language.

G. Unobstructed and Conspicuous. Labeling text on a Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to a Container, provided that none of the information required by these rules is completely obstructed.

H. This paragraph (H) is effective beginning October 1, 2016. Use of the Word "Candy" and/or "Candies" Prohibited.

1. Licensees shall not use the word(s) "candy" and/or "candies" on the product, packaging or labeling for Retail Marijuana or Retail Marijuana Product.

2. Notwithstanding the requirements of subparagraph (H)(1), a licensed Retail Marijuana Establishment whose Identity Statement contains the word(s) "candy" and/or "candies" shall be permitted to place its Identity Statement on Retail Marijuana and/or Retail Marijuana Product packaging and labeling.

Basis and Purpose – R 1002.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-403(5), 12-43.4-404(1)(b), 12-43.4-404(4)(a), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility label each package and Container of Retail Marijuana with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern.

R 1002.5 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

A. Packaging of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana is placed within a sealed package that has no more than ten pounds of Retail Marijuana within it prior to transport or transfer of any Retail Marijuana to another Retail Marijuana Establishment. The package shall be affixed with an RFID tag in accordance with rule R 1001(A).

B. Labeling of Retail Marijuana Packages by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every package holding Retail Marijuana that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every package holding Retail Marijuana:

a. The license number of the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;

b. The Harvest Batch Number(s) assigned to the Retail Marijuana;

c. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Retail Marijuana prior to its placement in thepackage; and

d. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana.

2. Required Potency Statement. For each package of Retail Marijuana, the potency of at least the Retail Marijuana's THC and CBD shall be included on a label that is affixed to the package. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration for each cannabinoid listed, from every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last six months.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility did not test a Harvest Batch for microbials, mold, mildew, and filth, then the package shall be labeled with the following statement: **"The marijuana contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the package instead shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed. If a Retail Marijuana Testing Facility tested a Harvest Batch for microbials, mold, mildew, and filth, and the required test(s) passed, then the package shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

C. Labeling of Retail Marijuana Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages Retail Marijuana within a Container that is then placed within a larger package, each Container must be affixed with a label(s) containing all of the information required by Rule R 1002(B), except that the net weight statement required by Rule R 1002 (B)(1)(c) shall be based upon the weight in the Container and not the larger package or Shipping Container.

Basis and Purpose – R 1003.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-403(5), 12-43.4-404(1)(b), 12-43.4-404(1)(e)(II), 12-43.4-404(1)(e)(III), 12-43.4-404(4)(a), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility labels each package and Container of Retail Marijuana Concentrate with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana Concentrate as this is a public health and safety concern.

R 1003.5 – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility.

A. Packaging of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana Concentrate is placed within a sealed package that has no more than one pound of Retail Marijuana Concentrate within it prior to transport or transfer to another Retail Marijuana Establishment. The package shall be affixed with an RFID tag in accordance with rule R 1001(A).

B. Labeling Retail Marijuana Concentrate Packages by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every package holding Retail Marijuana Concentrate that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every package holding Retail Marijuana Concentrate:

a. The license number(s) of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Concentrate was grown;

b. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Concentrate;

c. The Production Batch Number assigned to the Retail Marijuana Concentrate contained within the package;

d. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Retail Marijuana Concentrate prior to its placement in the package;

e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana Concentrate contained within; and

f. A complete list of solvents and chemicals used to create the Retail Marijuana Concentrate.

2. Required Potency Statement. For each package of Retail Marijuana Concentrate, the potency of at least the Retail Marijuana Concentrate's THC and CBD shall be included on a label that is affixed to the package. The potency shall be expressed in milligrams for each cannabinoid.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, then the package shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, the package instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Food- or Water-Based Retail Marijuana Concentrate for microbials, mold, and mildew, then the package shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the package instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, and the required test(s) passed, then the package instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch for microbials, mold, and mildew, and the required test(s) passed, then the package instead shall be labeled with the following

statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Concentrate that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

C. Labeling of Retail Marijuana Concentrate Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages a Retail Marijuana Concentrate within a Container that is then placed within a larger package, each Container must be affixed with a label(s) containing all of the information required by Rule R 1003(B), except that the net weight statement required by Rule R 1003(B)(1)(d) shall be based upon the weight in the Container and not the larger package.

Basis and Purpose – R 1004

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(III), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-404(4)(a), 12-43.4-404(b)(I-II),12-43.4-404(6), 12-43.4-404(8), 12-43.4-901(2)(a), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that every Retail Marijuana Products Manufacturing Facility labels each package and Container holding a Retail Marijuana Product with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1004 – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

A. Packaging of Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

1. General Standard. Every Retail Marijuana Products Manufacturing Facility must ensure that each Container holding a Retail Marijuana Product is placed in a package prior to transport or transfer to another Retail Marijuana Establishment. The package shall be affixed with an RFID tag in accordance with rule R 1001(A).

2. Single-Serving Edible Retail Marijuana Product. Every Retail Marijuana Products Manufacturing Facility must ensure that each Single-Serving Edible Retail Marijuana Product is packaged within a Child-Resistant Container prior to transport or transfer to another Retail Marijuana Establishment.

3. Bundled Single-Serving Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility may bundle Single-Serving Edible Retail Marijuana Products that are packaged in Child-Resistant packaging and labeled

pursuant to Rule R 1004.5(B) into a larger package that does not need to be Child-Resistant so long as:

a. The total amount of active THC contained within the larger package does not exceed 100 milligrams;

b. The larger package complies with the Universal Symbol labeling requirement of subsubparagraph (B)(1)(i) of this rule R 1004; and

c. The larger package complies with the Serving Size and Total Active THC Statement requirement of subsubparagraph (B)(2)(c) of this rule R 1004.

4. Multiple-Serving Edible Retail Marijuana Product. Every Retail Marijuana Products Manufacturing Facility must ensure that each Multiple-Serving Edible Marijuana Product is packaged within a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings prior to transport or transfer to another Retail Marijuana Establishment.

4.5 Liquid Edible Retail Marijuana Product.

a. Each Liquid Edible Retail Marijuana Product that is a Single-Serving Edible Retail Marijuana Product shall be packaged pursuant to subparagraph (A)(2) of this rule R 1004.

b. Each Liquid Edible Retail Marijuana Product that is a Multiple-Serving Edible Retail Marijuana Product shall be:

i. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10mg of active THC per serving, with no more than 100mg of active THC total per Child-Resistant package; and

ii. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

5. Retail Marijuana Product that is not Edible Retail Marijuana Product. Every Retail Marijuana Products Manufacturing Facility must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is individually packaged within a Container prior to transport or transfer to another Retail Marijuana Establishment.

B. Labeling of Retail Marijuana Product Containers by a Retail Marijuana Products Manufacturing Facility. A Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Container holding a Retail Marijuana Product that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information (General). Every Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Container holding a Retail Marijuana Product:

a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Product was grown;

b. The Production Batch Number(s) of Retail Marijuana Concentrate(s) used in the production of the Retail Marijuana Product.

c. The license number of the Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Product.

d. A net weight statement.

e. The Production Batch Number(s) assigned to the Retail Marijuana Product.

f. A statement about whether the Container is Child-Resistant.

g. A clear set of usage instructions for non-Edible Retail Marijuana Product.

h. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Products Manufacturing Facility that manufactured the Retail Marijuana Product. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

i. The Universal Symbol, which must be located on the front of the packaging and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: “Contains Marijuana. Keep out of the reach of children.”;

j. The following warning statements:

   i. **“There may be health risks associated with the consumption of this product.”**

   ii. **“This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S.”**

   iii. **“This product was produced without regulatory oversight for health, safety, or efficacy.”**

   iv. **“The intoxicating effects of this product may be delayed by two or more hours.”**

   v. **“There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.”**

   vi. **“Do not drive a motor vehicle or operate heavy machinery while using marijuana.”**

k. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana Product.

l. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate that was used to produce the Retail Marijuana Product.

m. Required Potency Statement. This subsubparagraph (B)(1)(m) of rule R 1004 shall become effective October 1, 2017. Each Container holding a Retail Marijuana Product shall be labeled with the potency of at least the Retail Marijuana Product's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled either:

i. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

2. Required Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility must ensure that the following information or statement is affixed to every Container holding an Edible Retail Marijuana Product:

a. Ingredient List. A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which shall include a list of any potential allergens contained within.

b. Statement Regarding Refrigeration. If the Retail Marijuana Product is perishable, a statement that the Retail Marijuana Product must be refrigerated.

c. Serving Size and Total Active THC Statement. Information regarding: the size of Standardized Serving Of Marijuana for the product by milligrams, the total number of Standardized Servings of Marijuana in the product, and the total amount of active THC in the product by milligrams. For example: **"The serving size of active THC in this product is X mg**, **this product contains X servings of marijuana, and the total amount of active THC in this product is X mg."**

d. Statement of Production Date. The date on which the Edible Retail Marijuana Product was produced.

e. Statement of Expiration Date. A product expiration date, for perishable Retail Marijuana Product, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a Container holding a Retail Marijuana Product, a Licensee shall not alter that date or affix a new label with a later use-by or expiration date.

f. A nutritional fact panel that must be based on the number of THC servings within the Container.

3. Permissive Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility may affix a label(s) with the following information to every Container holding an Edible Retail Marijuana Product:

   a. The Retail Marijuana Product's compatibility with dietary restrictions.

4. Required Potency Statement.

   a. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Container that includes the number of THC servings within the Container, and at least the Retail Marijuana Product's THC and CBD content.

   b. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Product that has failed potency testing and has not subsequently passed the additional potency testing required by rule R 1507(C).

5. Required Contaminant Testing Statement.

   a. When All Required Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility did not test a Production Batch of Retail Marijuana Product for microbials, mold, and mildew, then the Container shall be labeled with the following statement: **"The Retail Marijuana Product contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants for the particular Retail Marijuana Product pursuant to rule R 1501, then the Container instead shall be labeled with the following statement: "**The Retail Marijuana Product contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

   b. When All Contaminant Tests Are Performed and Passed. If a Retail Marijuana Testing Facility tested a Production Batch of Retail Marijuana Product for microbials, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Retail Marijuana Product contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

   c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Product that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

D. Labeling of Retail Marijuana Product Packages by Retail Marijuana Products Manufacturing Facility. Prior to transporting or transferring any Retail Marijuana Product to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Products Facility must ensure that a label is affixed to a package holding Retail Marijuana Product that includes all of the information required by this rule. A Retail Marijuana Products Manufacturing Facility must include the following information on every package:

   1. The number of Containers holding a Retail Marijuana Product within the package; and

2. The license number of the Retail Marijuana Products Manufacturing Facility(-ies) that produced the Retail Marijuana Product within the package.

Basis and Purpose – R 1005.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-402(4), 12-43.4-402(5), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the labeling on each Container of Retail Marijuana includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1005.5 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Store

A. Packaging of Retail Marijuana by a Retail Marijuana Store. A Retail Marijuana Store must ensure that all Retail Marijuana is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant

B. Labeling of Retail Marijuana by a Retail Marijuana Store. A Retail Marijuana Store must affix all of the information required by this rule to every Container in which Retail Marijuana is placed no later than at the time of sale to a consumer:

1. A Retail Marijuana Store must include the following information on every Container:

a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana was grown;

b. The license number of the Retail Marijuana Store that sold the Retail Marijuana to the consumer;

c. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

d. The Harvest Batch Number(s) assigned to the Retail Marijuana within the Container;

e. The date of sale to the consumer;

f. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana prior to its placement in the Container;

g. The Universal Symbol, which must be located on the front of the Container and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. Keep out of the reach of children.";

h. The following warning statements:

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This marijuana's potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S."**

iii. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

iv. **"Do not drive or operate heavy machinery while using marijuana."**

i. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana.

2. Required Potency Statement. This subparagraph (B)(2) of rule R 1005.5 shall be repealed on October 1, 2017. For each Harvest Batch of Retail Marijuana packaged within a Container, the Retail Marijuana Store shall ensure the potency of at least the Retail Marijuana's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration for each cannabinoid listed, from every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last six months.

2.1. Required Potency Statement. This subparagraph (B)(2.1) of rule R 1005.5 shall become effective on October 1, 2017. For each Harvest Batch of Retail Marijuana packaged within a Container, the Retail Marijuana Store shall ensure the potency of at least the Retail Marijuana's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration for each cannabinoid listed, from every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last six months. The potency shall be labeled either:

a. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

b. Highlighted with a bright color such as yellow.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility did not test a Harvest Batch for microbials, mold, mildew, and filth, then a Retail Marijuana Store must ensure that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with the following statement: **"The marijuana contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the Container instead shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

b. When All Required Contaminant Tests Are Performed and Passed. If a Retail Marijuana Testing Facility tested a Harvest Batch for microbials, mold, mildew, and filth, and all the required test(s) passed, then the Container shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

Basis and Purpose – R 1006

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(III), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-402(2), 12-43.4-402(4), 12-43.4-402(5), 12-43.4-901(2)(a), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the labeling on each Container holding a Retail Marijuana Product includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1006 – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

A. Packaging Requirements for a Retail Marijuana Store.

1 Beginning December 1, 2016, a Retail Marijuana Store shall not purchase, take possession of, or sell Retail Marijuana Product that does not comply with rules R 604 and R 1004.

2. A Retail Marijuana Store must ensure that each Edible Retail Marijuana Product placed within a Container for sale to a consumer pursuant to this rule must also be placed in an Opaque Exit Package at the point of sale to the consumer.

3. A Retail Marijuana Store must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

B. Labeling of Retail Marijuana Product by a Retail Marijuana Store. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Exit Package at the time of sale to a consumer that includes all of the information required by this rule. If an Exit Package is not required pursuant to paragraph (A)(3) of this rule, and the Retail Marijuana Store elects not to provide one, then the Retail Marijuana Store must ensure the labels required by this rule are affixed to each Container.

1. Required Information.

a. The license number of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer;

b. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

c. The date of sale to the consumer;

d. The following warning statements;

i. **“There may be health risks associated with the consumption of this product.”**

ii. **“This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S.”**

iii. **“This product was produced without regulatory oversight for health, safety, or efficacy.”**

iv. **“The intoxicating effects of this product may be delayed by two or more hours.”**

v. **“There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.”**

vi. **“Do not drive a motor vehicle or operate heavy machinery while using marijuana.”**

e. The Universal Symbol, which must be located on the front of the Container or Exit Package as appropriate and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: “Contains Marijuana. Keep out of the reach of children.”.

f. Required Potency Statement. This subsubparagraph (B)(1)(f) of rule R 1006 shall become effective October 1, 2017. Each Container holding a Retail Marijuana Product shall be labeled with the potency of at least the Retail Marijuana Product's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled either:

i. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

Basis and Purpose – R 1007.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-402(4), 12-43.4-402(5), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the labeling on each Container holding a Retail Marijuana Concentrate includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring Child-Resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to each Retail Marijuana Concentrate because this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1007.5 – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Store

A. Packaging of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility. A Retail Marijuana Store must ensure that all Retail Marijuana Concentrate is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

B. Labeling of Retail Marijuana Concentrate by Retail Marijuana Stores. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Container holding Retail Marijuana Concentrate that includes all of the information required by this rule no later than at the time of sale to a consumer:

1. Every Retail Marijuana Store must ensure the following information is affixed to every Container holding a Retail Marijuana Concentrate:

a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Concentrate within the Container was grown;

b. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Concentrate;

c. The Production Batch Number assigned to the Retail Marijuana Concentrate;

d. The license number of the Retail Marijuana Store that sold the Retail Marijuana Concentrate to the consumer;

e. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana Concentrate prior to its placement in the Container;

f. The date of sale to the consumer;

g. The following warning statements:

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S."**

iii. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

iv. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

v. **"Do not drive a motor vehicle or operate heavy machinery while using marijuana."**

h. The Universal Symbol, which must be located on the front of the Container and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. Keep out of the reach of children.";

i. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana concentrate; and

j. A complete list of solvents and chemicals used to produce the Retail Marijuana Concentrate.

2. Required Potency Statement. This subparagraph (B)(2) of rule R 1007.5 shall be repealed on October 1, 2017. For each Production Batch of Retail Marijuana Concentrate packaged within a Container, the Retail Marijuana Store shall ensure the potency of at least the Retail Marijuana Concentrate's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed in milligrams for each cannabinoid.

2.1. Required Potency Statement. This subparagraph (B)(2.1) of rule R 1007.5 shall become effective October 1, 2017. Each Container holding a Retail Marijuana

Concentrate shall be labeled with the potency of at least the Retail Marijuana Concentrate's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled either:

a. In a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and enclosed within an outlined shape such as a circle or square; or

b. Highlighted with a bright color such as yellow.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, then the Container shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, the Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Food- or Water-Based Retail Marijuana Concentrate for microbials, mold, and mildew, then the Container shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch for microbials, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Concentrate that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

R 1300 Series – Discipline

Basis and Purpose – R 1302

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(XVI) 12-43.4-202(3)(b)(IX) and 24-4-104(4)(a), C.R.S., and sections 12-43.4-601 and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately suspend a license prior to and pending a hearing and final agency order. Summary suspensions will be imposed when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and welfare imperatively require emergency action. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause.

R 1302 – Summary Suspensions

A. How a Summary Suspension Action is Initiated

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation following a hearing on an Order to Show Cause.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued in accordance with the following procedure:

a. After the Summary Suspension Order is issued, the State Licensing Authority shall promptly issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why the Licensee's license

should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

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

c. The Order to Show Cause shall be filed with the Department's Hearings Division. The hearing on the allegations set forth in the Order to Show Cause shall be expedited to the extent practicable and will be conducted in accordance with Rule M 1304 – Administrative Hearings.

6. Repealed

B. Duration of Summary Suspension. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

Basis and Purpose – R 1304

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), 12-43.4-202(2)(d), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(XVI), 12-43.4-202(3)(b)(IX), 12-43.3-202(1)(d), and sections 12-43.4-601, 24-4-104, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of administrative notices: an Order to Show Cause and a Notice of Grounds for Denial.

R 1304 – Administrative Hearings

A. General Procedures

1. Hearing Location. Hearings will generally be conducted by the Department's Hearings Division. Unless the hearing officer orders a change of location based on good cause, as described in this rule, hearings generally will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Under unusual circumstances where justice, judicial economy and convenience of the parties would be served, hearings may be held in other locations in the state of Colorado.

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

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense.

B. Requesting a Hearing

1. A Denied Applicant that has been served with a Notice of Denial may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request for hearing will not be considered.

2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.

3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

C. When a Responsive Pleading is Required

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

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

D. Hearing Notices

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record.

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

    a. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause will be scheduled and held promptly.

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

c. For purposes of this rule, good cause may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally

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

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

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

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

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

c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.

d. Stipulations. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

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

F. Conduct of Hearings

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

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

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

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

a. Reports and other information that would otherwise be confidential pursuant to Subsections 12-43.3-202(1)(d) and 12-43.4-202(2)(d), C.R.S., may be introduced as exhibits at hearing.

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

5. Court Rules.

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

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

6. Exhibits.

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

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

c. The Denied Applicant or Respondent shall use letters to mark its exhibits.

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

G. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule R 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision.

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

I. Marijuana Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

R 1500 Series – Retail Marijuana Testing Program

Basis and Purpose – R 1501

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), 12-43.4-404(3), and 12-43.4-404(6), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the contaminant testing and related process validation portion of the Division's Retail Marijuana sampling and testing program.

R 1501 – Retail Marijuana Testing Program – Contaminant Testing

A. Contaminant Testing Required. Until a Retail Marijuana Cultivation Facility's or a Retail Marijuana Product Manufacturing Facility's cultivation or production process has been validated under this rule, it shall not wholesale, transfer, or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product unless Samples from the Harvest Batch or Production Batch from which that Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product was derived was tested by a Retail Marijuana Testing Facility for contaminants and passed all contaminant tests required by paragraph C of this rule.

B. Validation of Process – Contaminant Testing

1. Retail Marijuana. A Retail Marijuana Cultivation Facility's cultivation process shall be deemed valid regarding Contaminants if every Harvest Batch that it produced during at least a six week period but no longer than a 12 week period passed all contaminant tests required by paragraph C of this rule. This must include at least 6 Test Batches that contain Samples from entirely different Harvest Batches

2. Retail Marijuana Concentrate or Retail Marijuana Product. A Retail Marijuana Cultivation Facility's or a Retail Marijuana Products Manufacturing Facility's production process shall be deemed valid regarding contaminants if every Production Batch that it produced during at least a four week period but no longer than an eight week period passed all contaminant tests required by paragraph C of this rule. This must include at least four Test Batches that contain Samples from entirely different Production Batches.

3. Process Validation is Effective for One Year. Once a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility has successfully obtained process validation for contaminants, the process validation shall be effective for one year from the date of the last passing test required to satisfy the process validation requirements.

C. Required Contaminant Tests

1. Microbial Contaminant Testing. Each Harvest Batch of Retail Marijuana and Production Batch of Water- or Food-Based Retail Marijuana Concentrate and Retail Marijuana Product must be tested for microbial contamination by a Retail Marijuana Testing Facility. The microbial contamination test must include, but need not be limited to, testing to determine the presence of Salmonella sp. and shiga-toxin producing Escherichia coli., and the amount of total yeast and mold.

2. Repealed

3. Repealed.

4. Residual Solvent Contaminant Testing. Each Production Batch of Solvent-Based Retail Marijuana Concentrate produced by a Retail Marijuana Products Manufacturing Facility must be tested by a Retail Marijuana Testing Facility for residual solvent contamination. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, butane, heptanes, benzene*, toluene*, hexane*, and xylenes*. * Note: These solvents are not approved for use. Testing is required for

these solvents due to their possible presence in the solvents approved for use per rule R 605.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to a Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility wholesaling, transferring, or processing into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from that Harvest Batch or Production Batch. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants, biological contaminants, or other types of microbials, molds, metals, or residual solvents.

E. Exemptions

1. Retail Marijuana Concentrate. A Production Batch of Retail Marijuana Concentrate shall be considered exempt from this rule if the Retail Marijuana Products Manufacturing Facility that produced it does not wholesale or transfer any of portion of the Production Batch and uses the entire Production Batch to manufacture Retail Marijuana Product, except that a Solvent-Based Retail Marijuana Concentrate must still be submitted for residual solvent contaminant testing.

F. Required Re-Validation - Contaminants.

1. Material Change Re-validation. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility makes a Material Change to its cultivation or production process, then it must have the first five Harvest Batches or Production Batches produced using the new standard operating procedures tested for all of the contaminants required by paragraph C of this rule regardless of whether its process has been previously validated regarding contaminants. If any of those tests fail, then the Retail Marijuana Establishment's process must be re-validated.

a. Pesticide. It shall be considered a Material Change if a Retail Marijuana Cultivation Facility begins using a new or different Pesticide during its cultivation process and the first five Harvest Batches produced using the new or different Pesticide must also be tested for Pesticide.

b. Solvents. It shall be considered a Material Change if a Retail Marijuana Products Manufacturing Facility begins using a new or different solvent or combination of solvents.

c. Notification. A Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility that makes a Material Change must notify the Retail Marijuana Testing Facility that conducts contaminant testing on the first five Harvest Batches or Production Batches produced using the new standard operating procedures.

d. Testing Required Prior to Wholesale, Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this rule, the Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility that produced it may not wholesale, transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any of the Retail Marijuana, Retail Marijuana

Concentrate or Retail Marijuana Product from that Harvest Batch or Production Batch.

2. Failed Contaminant Testing Re-Validation. If a Sample the Division requires to be tested fails contaminant testing, the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall follow the procedures in paragraph B of rule R 1507 for any package, Harvest Batch, or Production Batch from which the failed Sample was taken. The Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall also submit three additional Test Batches of the Retail Marijuana or Retail Marijuana Product for contaminant testing by a Retail Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall re-validate its process for contaminants.

3. Expiration of Process Validation. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall be required to re-validate its process once the one year of process validation expires, or the Retail Marijuana Establishment shall comply with the requirements of paragraph A of this rule R 1501.

G. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1502

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), 12-43.4-404(3), and 12-43.4-404(6), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the mandatory testing portion of the Division's Retail Marijuana sampling and testing program.

R 1502 – Retail Marijuana Testing Program – Mandatory Testing

A. Required Sample Submission. A Retail Marijuana Establishment may be required by the Division to submit a Sample(s) of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product it possesses to a Retail Marijuana Testing Facility at any time regardless of whether its process has been validated and without notice.

1. Samples collected pursuant to this rule may be tested for potency or contaminants which may include, but may not be limited to, Pesticide, microbials, molds, metals, residual solvents, biological contaminants, and chemical contaminants..

2. When a Sample(s) is required to be submitted for testing, the Retail Marijuana Establishment may not sell, wholesale, transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from the package, Harvest Batch or Production Batch from which the Sample was taken, unless or until it passes all required testing.

B. Methods for Determining Required Testing

1. Random Testing. The Division may require Samples to be submitted for testing through any one or more of the following processes: random process, risk-based process or other internally developed process, regardless of whether a Retail Marijuana Establishment's process has been validated.

2. Inspection or Enforcement Tests. The Division may require a Retail Marijuana Establishment to submit a Sample for testing if the Division has reasonable grounds to believe that:

   a. Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product is contaminated or mislabeled;

   b. A Retail Marijuana Establishment is in violation of any product safety, health or sanitary law, rule or regulation; or

   c. The results of a test would further an investigation by the Division into a violation of any law, rule or regulation.

3. Beta Testing. The Division may require a Retail Marijuana Establishment to submit Samples from certain randomly selected Harvest Batches or Production Batches for potency or contaminant testing prior to implementing mandatory testing.

C. Minimum Testing Standards. The testing requirements contained in the R 1500 series are the minimum required testing standards. Retail Marijuana Establishments are responsible for receiving enough testing on any Retail Marijuana, Retail Marijuana Concentrate, and/or Retail Marijuana Product they produce to ensure the marijuana consumables are safe for human consumption.

D. Additional Sample Types. The Division may also require a Retail Marijuana Establishment to submit Samples comprised of items other than Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product to be tested for contaminants which may include, but may not be limited to, Pesticide, microbials, molds, metals, residual solvents, biological contaminants, and chemical contaminants.. The following is a non-exhaustive list of the types of Samples that may be required to be submitted for contaminant testing:

1. Specific plant(s) or any portion of a plant(s),

2. Any growing medium, water or other substance used in the cultivation process,

3. Any water, solvent or other substance used in the processing of a Retail Marijuana Concentrate,

4. Any ingredient or substance used in the manufacturing of a Retail Marijuana Product; or

5. Swab of any equipment or surface.

E. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1504

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), 12-43.4-404(3), and 12-43.4-404(6), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing sampling procedures and rules for the Division's Retail Marijuana sampling and testing program.

R 1504 – Retail Marijuana Testing Program – Sampling Procedures

A. Collection of Samples

1. Sample Collection. All Samples submitted for testing pursuant to this rule must be collected by Division personnel or in accordance with the Division's sampling policy.

2. Sample Selection. The Division may elect, at its sole direction, to assign Division personnel to collect Samples. A Retail Marijuana Establishment, its Owners and employees shall not attempt to influence the Samples selected by Division personnel.

3. Adulteration or Alteration Prohibited. A Licensee or its agent shall not adulterate or alter, or attempt to adulterate or alter, any Samples of Retail Marijuana or Retail Marijuana Product for the purpose of circumventing contaminant testing detection limits or potency testing requirements. The Sample(s) collected and submitted for testing must be representative of the Harvest Batch or Production Batch being tested. A violation of this sub-paragraph (A)(3) shall be considered a license violation affecting public safety.

B. Samples for Test Batches of Retail Marijuana and Retail Marijuana Concentrate. Each Test Batch of Retail Marijuana or Retail Marijuana Concentrate must be comprised of a representative selection of Samples.

1. Minimum Number of Samples. At a minimum, each Test Batch of Retail Marijuana or Retail Marijuana Concentrate must be comprised of at least the following number of separately taken Samples:

a. For Test Batches comprised of Harvest Batches or Production Batches weighing up to 10 pounds, eight separate Samples must be taken and combined into one Test Batch.

b. For Test Batches comprised of Harvest Batches or Production Batches weighing more than 10 pounds but less than 20 pounds, 12 separate Samples must be taken and combined into one Test Batch.

c. For Test Batches comprised of Harvest Batches or Production Batches weighing 20 pounds or more but less than 30 pounds, 15 separate Samples must be taken and combined into one Test Batch.

d. For Test Batches comprised of Harvest Batches or Production Batches weighing 30 pound or more but less than 40 pounds, 18 separate Samples must be taken and combined into one Test Batch.

e. For Test Batches comprised of Harvest Batches or Production Batches weighing 40 pounds or more but less than 100 pounds, 23 separate Samples must be taken and combined into one Test Batch.

f. For Test Batches comprised of Harvest Batches or Production Batches weighing 100 pounds or more, 29 separate Samples must be taken and combined into one Test Batch.

2. Multiple Harvest Batches or Production Batches. If more than one Harvest Batch or Production Batch is combined into a single Test Batch, then that Test Batch must include at least one Sample from each Harvest Batch or Production Batch.

C. Samples for Test Batches of Retail Marijuana Product

1. Finished Product. Test Batches of Retail Marijuana Product must be comprised of finished product that is packaged for sale.

2. Multiple Production Batches. If more than one Production Batch of Retail Marijuana Product is combined into a single Test Batch, then that Test Batch must include at least one finished product that is packaged for sale from each Production Batch combined into that Test Batch.

D. Retail Marijuana Testing Facility Selection. The Division will generally permit a Retail Marijuana Establishment to select which Retail Marijuana Testing Facility will test a Sample collected pursuant to this rule. However, the Division may elect, at is sole discretion, to assign a Retail Marijuana Testing Facility to test the Sample.

E. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1507

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), 12-43.4-404(3), and 12-43.4-404(6), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for Division's Retail Marijuana Sampling and Testing Program.

R 1507 – Retail Marijuana Testing Program – Contaminated Product and Failed Test Results

A. Quarantining of Product

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, package or quantity of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product is contaminated or presents a risk to public safety, then the Division may require a Retail Marijuana Establishment to quarantine it until the completion of the Division's investigation, which may include the receipt of any test results.

2. If a Retail Marijuana Establishment is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch failed a contaminant or potency testing, then the Retail Marijuana Establishment shall quarantine any Retail

Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from any package, Harvest Batch or Production Batch combined into that Test Batch and must follow the procedures established pursuant to paragraph B of this rule.

3. Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product that has been quarantined pursuant to this rule must be physically separated from all other inventory and may not be sold, wholesaled, transferred or processed into a Retail Marijuana Concentrate or Retail Marijuana Product.

B. Failed Contaminant Testing: All Contaminant Testing Except Microbial Testing of Retail Marijuana Flower or Trim. If a Retail Marijuana Establishment is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch failed contaminant testing, then for each package, Harvest Batch or Production Batch combined into that Test Batch the Retail Marijuana Establishment must either:

1. Destroy and document the destruction of the package, Harvest Batch or Production Batch that it possesses, See Rule R 307 – Waste Disposal; or

2. Decontaminate the portion of the package, Harvest Batch or Production Batch that it possesses, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the identified contaminant by the same or different Retail Marijuana Testing Facility.

a. If both new Test Batches pass the required contaminant testing, then any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from any package, Harvest Batch or Production Batch included in that Test Batch may be sold, wholesaled, transferred or processed into a Retail Marijuana Concentrate or Retail Marijuana Product.

b. If one or both of the Test Batches do not pass contaminant testing, then the Retail Marijuana Establishment must destroy and document the destruction of the entire portion of the package, Harvest Batch or Production Batch included in that Test Batch that it possesses. See Rule R 307 – Waste Disposal.

B.1. Failed Contaminant Testing: Microbial Testing of Retail Marijuana Flower or Trim. If a Retail Marijuana Cultivation Facility is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch of Retail Marijuana flower or trim failed microbial testing, then for each package or Harvest Batch combined into that Test Batch the Retail Marijuana Cultivation Facility must either:

1. Destroy and document the destruction of the package or Harvest Batch, See Rule R 307 – Waste Disposal; or

2. The Retail Marijuana Cultivation Facility may transfer all packages or Harvest Batches associated with the failed Test Batch to a Retail Marijuana Products Manufacturing Facility for processing the particular Retail Marijuana into a Solvent-Based Retail Marijuana Concentrate.

a. The Solvent-Based Retail Marijuana Concentrate shall be manufactured entirely from the Retail Marijuana flower or trim that failed microbial testing. No other Retail Marijuana shall be included in the Solvent-Based Retail Marijuana Concentrate manufactured pursuant to subparagraph (B.1)(2) of this rule R 1507.

b. The Solvent-Based Retail Marijuana Concentrate that was manufactured out of the Retail Marijuana flower or trim that failed microbial testing shall undergo all required testing for contaminants pursuant to rule R 1501 – Retail Marijuana Testing Program – Contaminant Testing, for potency pursuant to rule R 1503 – Retail Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Retail Marijuana Rules or Retail Marijuana Code.

c. If the Solvent-Based Retail Marijuana Concentrate that was manufactured out of the Retail Marijuana flower or trim that failed microbial testing fails contaminant testing, the Retail Marijuana Cultivation Facility shall destroy and document the destruction of the entire portion of the Production Batch(es) associated with the Solvent-Based Retail Marijuana Concentrate that failed contaminant testing, See Rule R 307 – Waste Disposal.

3. Nothing in this rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to rule R 502(E).

C. Failed Potency Testing. If a Retail Marijuana Establishment is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch of Retail Marijuana Product failed potency testing, then for the package or Production Batch from which that Test Batch was produced the Retail Marijuana Establishment must either:

1. Destroy and document the destruction of the entire portion of the package or Production Batch that it possesses, See Rule R 307 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches and have those Test Batches tested for potency by the same or different Retail Marijuana Testing Facility.

a. If both new Test Batches pass potency testing, then any Retail Marijuana Product from the Production Batch included in the Test Batch may be sold, wholesaled or transferred.

b. If one or both of the Test Batches fail potency testing, then the Retail Marijuana Products Manufacturing Facility must destroy and document the destruction of the entire portion of the package or Production Batch that it possesses. See Rule R 307 – Waste Disposal.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

R 1600 Series – Retail Marijuana Transporters

Basis and Purpose – R 1601

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(b)(IX), and 12-43.4-406, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Transporter to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 1601 – Retail Marijuana Transporter: License Privileges

A. Privileges Granted. A Retail Marijuana Transporter shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Transporter may share a location with an identically owned Medical Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Transportation of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Transporter may take transportation and delivery orders, receive, transport, temporarily store, and deliver Retail Marijuana and Retail Marijuana Product.

D. Authorized Sources of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter may only transport and store Retail Marijuana and Retail Marijuana Product that it received directly from the originating Retail Marijuana Establishment.

E. Authorized On-Premises Storage. A Retail Marijuana Transporter is authorized to store transported Retail Marijuana and Retail Marijuana Product on its Licensed Premises or permitted off-premises storage facility. All transported Retail Marijuana and Retail Marijuana Product must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

Basis and Purpose – R 1602

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(b)(IX), and 12-43.4-406, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Transporter.

R 1602 – Retail Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Retail Marijuana Transporter is prohibited from buying, selling, or giving away Retail Marijuana or Retail Marijuana Product, or from receiving complimentary Retail Marijuana or Retail Marijuana Product. A Retail Marijuana Transporter shall not place or hold a lien or secured interest on Retail Marijuana or Retail Marijuana Product.

B. Licensed Premises Required. A Retail Marijuana Transporter shall maintain a Licensed Premises. The Licensed Premises shall be in a local jurisdiction that authorizes the operation of Retail Marijuana Stores. If a Retail Marijuana Transporter Licensed Premises is co-located with a Medical Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a local jurisdiction that authorizes the operation of both Retail Marijuana Stores and Medical Marijuana Centers.

C. Off-Premises Storage Permit. A Retail Marijuana Transporter may maintain one or more permitted off-premises storage facilities. See rule R 802 – Off-Premises Storage of Retail Marijuana and Retail Marijuana Product: All Retail Marijuana Establishments.

D. Storage Duration. A Retail Marijuana Transporter shall not store Retail Marijuana or Retail Marijuana Product for longer than 7 days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable 7 day storage duration begins and applies regardless of which of the Retail Marijuana Transporter's premises receives the Retail Marijuana or Retail Marijuana Product first, ie. the Retail Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities.

E. Control of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter is responsible for the Retail Marijuana and Retail Marijuana Product once it takes control of the Retail Marijuana and Retail Marijuana Product and until the Retail Marijuana Transporter delivers it to the receiving Retail Marijuana Establishment. For purposes of this rule, taking control of the Retail Marijuana and Retail Marijuana Product means removing it from the originating Retail Marijuana Establishment's Licensed Premises and placing the Retail Marijuana and Retail Marijuana Product in the transport vehicle.

F. Location of Orders Taken and Delivered. A Retail Marijuana Transporter is permitted to take orders on the Licensed Premises of any Retail Marijuana Establishment to transport Retail Marijuana and Retail Marijuana Product. The Retail Marijuana Transporter shall deliver the Retail Marijuana and Retail Marijuana Product to the Licensed Premises of a licensed Retail Marijuana Establishment.

G. Consumption Prohibited. A Licensee shall not permit the consumption of marijuana or marijuana product on the Licensed Premises or in transport vehicles.

H. A Retail Marijuana Transporter shall receive Retail Marijuana and Retail Marijuana Product from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee. The Retail Marijuana Transporter shall deliver the Retail Marijuana and Retail Marijuana Product in the same, unaltered packaging to the final destination Licensee.

I. Opening of Sealed Packages or Containers and Re-Packaging Prohibited. A Retail Marijuana Transporter shall not open sealed packages or Containers of Retail Marijuana or Retail Marijuana Product. Retail Marijuana Transporters are prohibited from re-packaging Retail Marijuana or Retail Marijuana Product.

J. Temperature-Controlled Transport Vehicles. A Retail Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Retail Marijuana and Retail Marijuana Product.

K. Damaged or Refused Product. Any damaged Retail Marijuana or Retail Marijuana Product that is undeliverable to the final destination Retail Marijuana Establishment, or any Retail Marijuana or Retail Marijuana Product that is refused by the final destination Retail Marijuana Establishment shall be transported back to the originating Retail Marijuana Establishment.

Basis and Purpose – R 1603

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(b)(IX), and 12-43.4-406(3) C.R.S. The purpose of this rule is to establish a Retail Marijuana Transporter's obligation to account for and track all Retail Marijuana and Retail Marijuana Product on the Licensed Premises from the point they are transferred from the originating Retail Marijuana Establishment to the destination Retail Marijuana Establishment.

R 1603 – Retail Marijuana Transporter: Inventory Tracking System

A. Minimum Tracking Requirement. A Retail Marijuana Transporter must use the Inventory Tracking System to ensure its transported Retail Marijuana and Retail Marijuana Product are identified and tracked from the point they are transferred from a Retail Marijuana Establishment when the Retail Marijuana Transporter takes control of the Retail Marijuana and Retail Marijuana Product by removing it from the originating Retail Marijuana Establishment's Licensed Premises and placing the Retail Marijuana and

Retail Marijuana Product in the Retail Marijuana Transporter's transport vehicle, through delivery to the destination Retail Marijuana Establishment. See also Rule R 309 – Inventory Tracking System. A Retail Marijuana Transporter must have the ability to reconcile its transported Retail Marijuana and Retail Marijuana Product with the Inventory Tracking System and the associated transaction history and transportation order receipts. See also Rule R 901 – Business Records Required.

1. A Retail Marijuana Transporter is prohibited from accepting any Retail Marijuana or Retail Marijuana Product from another Retail Marijuana Establishment without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Retail Marijuana Transporter must immediately input all Retail Marijuana and Retail Marijuana Product received at its Licensed Premises or off-premises storage facility, accounting for all RFID tags, into the Inventory Tracking System at the time of receiving the Retail Marijuana or Retail Marijuana Product.

3. A Retail Marijuana Transporter must reconcile transactions to the Inventory Tracking System at the close of business each day.

4. All information on the Inventory Tracking System generated transport manifests must be accurate.

Basis and Purpose – R 1604

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(a)(XVII), and 12-43.4-202(3)(b)(IX), C.R.S. It sets forth general standards and basic sanitary requirements for Retail Marijuana Transporters. It covers the physical premises where the products are stored as well as the individuals handling the products. This rule also authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Retail Marijuana Transporter's Licensed Premises. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Retail Marijuana Transporter's refusal to cooperate or pay for the audit. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana Establishments and the safety of the public.

R 1604 – Retail Marijuana Transporter: Health and Safety Regulations

A. Local Safety Inspections. A Retail Marijuana Transporter's Licensed Premises may be subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. Sanitary Conditions. A Retail Marijuana Transporter shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Retail Marijuana and Retail Marijuana Product, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Retail Marijuana or Retail Marijuana Product shall conform to hygienic practices while on duty, including but not limited to:

    a. Maintaining adequate personal cleanliness;

    b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated; and

    c. Refraining from having direct contact with Retail Marijuana or Retail Marijuana Product if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana or Retail Marijuana Product are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

6. That there is adequate lighting in all areas where Retail Marijuana or Retail Marijuana Product are stored, and where equipment or utensils are cleaned;

7. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

9. That toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

11. That each employee is provided with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Retail Marijuana or Retail Marijuana Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

C. Independent Health and Sanitary Audit.

1. State Licensing Authority May Require a Health and Sanitary Audit.

a. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Retail Marijuana Transporter to undergo such an audit. The scope of the audit may include, but need not be limited to, whether the Retail Marijuana Transporter is in compliance with the requirements set forth in this rule and other applicable health, sanitary or food handling laws, rules and regulations.

b. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Retail Marijuana Transporter. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Retail Marijuana Transporter will be responsible for all costs associated with the independent health and sanitary audit.

2. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

a. The Division has reasonable grounds to believe that the Retail Marijuana Transporter is in violation of one or more of the requirements set forth in this rule or other applicable public health or sanitary laws, rules or regulations; or

b. The Division has reasonable grounds to believe that the Retail Marijuana Transporter was the cause or source of contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

3. Compliance Required. A Retail Marijuana Transporter must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this rule.

4. Suspension of Operations.

a. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the public health, safety or welfare imperatively requires emergency action and incorporates such findings into its order, it may order summary suspension of the Retail Marijuana Transporter's license. See Rule R 1302 – Summary Suspensions.

b. Prior to or following the issuance of such an order, the Retail Marijuana Transporter may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

i. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety or welfare, then the State Licensing Authority will promptly

institute license suspension or revocation procedures. See Rule R 1302 – Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Retail Marijuana Transporter may continue to care for its stored or transported Retail Marijuana and Retail Marijuana Product and conduct any necessary internal business operations.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

R 1700 Series – Retail Marijuana Establishment Operators

Basis and Purpose – R 1701

The statutory authority for this rule is found at subsections 12-43.4-103(17.5), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XVIII), 12-43.4-202(3)(b)(IX), 12-43.4-309(7)(a), 12-43.4-401(1)(g), and 12-43.4-601(1), and section 12-43.4-407, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Establishment Operator Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 1701 – Retail Marijuana Establishment Operator: License Privileges

A. Privileges Granted. A Retail Marijuana Establishment Operator shall only exercise those privileges granted to it by the Retail Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Retail Marijuana Establishment Operator may exercise those privileges only on behalf of the Retail Marijuana Establishment(s) it operates. A Retail Marijuana Establishment shall not contract to have more than one Retail Marijuana Establishment Operator providing services to the Retail Marijuana Establishment at any given time.

B. Licensed Premises of the Retail Marijuana Establishment(s) Operated. A separate License is required for each specific Retail Marijuana Establishment Operator, and each such licensed Retail Marijuana Establishment Operator may operate one or more other Retail Marijuana Establishment(s). A Retail Marijuana Establishment Operator will not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Retail Marijuana Establishment Operator at the Licensed Premises of the Retail Marijuana Establishment(s) it operates.

C. Entities Eligible to Hold Retail Marijuana Establishment Operator License. A Retail Marijuana Establishment Operator License may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership or sole proprietorship.

D. Separate Place of Business. A Retail Marijuana Establishment Operator shall designate and maintain a place of business separate from the Licensed Premises of any Retail Marijuana Establishment(s) it operates. A Retail Marijuana Establishment Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements

applicable to the Licensed Premises of other Retail Marijuana Establishments, except as set forth in Rules R 1702 and 1704. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Retail Marijuana or Retail Marijuana Product is prohibited at a Retail Marijuana Establishment Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Retail Marijuana Establishment Operator and each of its Direct Beneficial Interest Owners required to hold an Associated Key License, as well as the agents and employees of the Retail Marijuana Establishment Operator, shall be agents of the Retail Marijuana Establishment(s) the Retail Marijuana Establishment Operator is contracted to operate, when engaged in activities related, directly or indirectly, to the operation of such Retail Marijuana Establishment(s), including for purposes of taking administrative action against the Retail Marijuana Establishment being operated. *See* § 12-43.4-601(1), C.R.S. Similarly, a Retail Marijuana Establishment Operator and its Direct Beneficial Interest Owners required to hold an Associated Key License, as well as the officers, agents and employees of the Retail Marijuana Establishment Operator, may be disciplined for violations committed by the Direct Beneficial Interest Owners, agents or employees of the Retail Marijuana Establishment acting under their direction or control. A Retail Marijuana Establishment Operator may also be disciplined for violations not directly related to a Retail Marijuana Establishment it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules and Regulations. A Retail Marijuana Establishment Operator, and each of its Direct Beneficial Interest Owners, agents and employees engaged, directly or indirectly in the operation of the Retail Marijuana Establishment it operates, shall comply with all state and local laws, ordinances, rules and regulations applicable to the Retail Marijuana Establishment(s) being operated.

Basis and Purpose – R 1702

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XVIII), 12-43.4-202(3)(b)(IX), and sections 12-43.4-407 and 12-43.4-901, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Establishment Operator.

R 1702 – Retail Marijuana Establishment Operators: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is a Direct Beneficial Interest Owner or an Indirect Beneficial Interest Owner of a Retail Marijuana Establishment Operator shall not be a Direct Beneficial Interest Owner or Indirect Beneficial Interest Owner of, or otherwise have a direct or indirect financial interest in, a Retail Marijuana Establishment operated by the Retail Marijuana Establishment Operator. Except that such Person shall have the right to compensation for services provided in accordance with these rules.

B. Sale of Marijuana Prohibited. A Retail Marijuana Establishment Operator is prohibited from selling, distributing, or transferring Retail Marijuana or Retail

Marijuana Product to another Retail Marijuana Establishment or a consumer, except when acting as an agent of a Retail Marijuana Establishment(s) operated by the Retail Marijuana Establishment Operator.

C. Consumption Prohibited. A Retail Marijuana Establishment Operator, and its Direct Beneficial Interest Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Retail Marijuana Establishment Operator, and any of its Direct Beneficial Interest Owners, agents or employees engaged in the operation of the Retail Marijuana Establishment(s) it operates, must use the Inventory Tracking System account of the Retail Marijuana Establishment(s) it operates, in accordance with all requirements, limitations and prohibitions applicable to the Retail Marijuana Establishment(s) it operates.

E. Compliance with Requirements and Limitations Applicable to the Retail Marijuana Establishment(s) Operated. In operating any other Retail Marijuana Establishment(s), a Retail Marijuana Establishment Operator, and its Direct Beneficial Interest Owners who are required to hold Associated Key Licenses, as well as the agents and employees of the Retail Marijuana Establishment Operator, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Retail Marijuana Establishment(s) being operated, under state and local laws, ordinances, rules and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Retail Marijuana Establishment may grant access to its Inventory Tracking System account to the Direct Beneficial Interest Owners, agents and employees of a Retail Marijuana Establishment Operator having duties related to Inventory Tracking System activities of the Retail Marijuana Establishment(s) being operated.

1. The Direct Beneficial Interest Owners, agents and employees of a Retail Marijuana Establishment Operator granted access to a Retail Marijuana Establishment's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Direct Beneficial Interest Owner of a Retail Marijuana Establishment being operated by a Retail Marijuana Establishment Operator msut be an Inventory Tracking System Trained Administrator for the Retail Marijuana Establishment's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Retail Marijuana Establishment Operator's Direct Beneficial Interest Owners, agents and employees:

    a. When its contract with the Retail Marijuana Establishment Operator expires by its terms;

    b. When its contract with the Retail Marijuana Establishment Operator is terminated by any party; or

c. When it is notified that the License of the Retail Marijuana Establishment Operator, or a specific Direct Beneficial Interest Owner, agent or employee of the Retail Marijuana Establishment Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Retail Marijuana Establishments. A Retail Marijuana Establishment Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Retail Marijuana Establishment(s) it operates, and shall not use or disseminate documents or information obtained from a Retail Marijuana Establishment it operates for any purpose not authorized by the Retail Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Retail Marijuana Establishment to promote the interests of the Retail Marijuana Establishment Operator or its Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners, agents or employees, or any Person other than the Retail Marijuana Establishment it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Retail Marijuana Establishment and a Retail Marijuana Establishment Operator:

1. Must acknowledge that the Retail Marijuana Establishment Operator, and its Direct Beneficial Interest Owners, agents and employees who are engaged, directly or indirectly, in operating the Retail Marijuana Establishment, are agents of the Retail Marijuana Establishment being operated, and must not disclaim an agency relationship.;

2. May provide for the Retail Marijuana Establishment Operator to receive direct remuneration from the Retail Marijuana Establishment, including a portion of the profits of the Retail Marijuana Establishment being operated, subject to the following limitations:

a. The portion of the profits to be paid to the Retail Marijuana Establishment Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Retail Marijuana Establishment being operated;

b. The Retail Marijuana Establishment Operator, and any Person associated with the Retail Marijuana Establishment Operator, shall not be granted, and may not accept:

i. a security interest in the Retail Marijuana Establishment being operated, or in any assets of the Retail Marijuana Establishment;

ii. an ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Retail Marijuana Establishment being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Retail Marijuana Establishment Operator, and any person associated with the Retail Marijuana Establishment Operator, shall not guarantee the Retail Marijuana Establishment's debts or production levels.

3. Shall permit the Retail Marijuana Establishment being operated to terminate the contract with the Retail Marijuana Establishment Operator at any time, with or without cause;

4. Shall be contingent on approval by the Division; and

5. Shall not be materially amended without advance written approval from the Division.

I. A Retail Marijuana Establishment Operator may engage in dual operation of a Retail Marijuana Establishment and a Medical Marijuana Business at a single location, to the extent the Retail Marijuana Establishment being operated is permitted to do so pursuant to subsection 12-43.4-401(2)(a), C.R.S., and the Retail Marijuana Establishment Operator shall comply with the rules promulgated pursuant to the Medical Code and the Retail Code, including the requirement of obtaining a valid registration as a Medical Marijuana Business Operator.

Basis and Purpose – R 1703

The statutory authority for this rule is found at subsections, 12-43.4-202(3)(a)(XVIII), 12-43.4-202(3)(b)(IX), 12-43.4-309(11), and 12-43.4-401(1)(e) C.R.S. The purpose of this rule is to establish occupational license requirements for the Retail Marijuana Establishment Operator's Direct Beneficial Interest Owners, agents and employees, including those directly or indirectly engaged in the operation of other Retail Marijuana Establishment(s).

R 1703 – Retail Marijuana Establishment Operators: Occupational Licenses for Personnel

A. Occupational Licenses Required. All natural persons who are Direct Beneficial Interest Owners, and all natural persons who are agents and employees, of a Retail Marijuana Establishment Operator that are actively engaged, directly or indirectly, in the operation of one or more other Retail Marijuana Establishment(s), including but not limited to all such persons who will come into contact with Retail Marijuana or Retail Marijuana Product, who will have to access Limited Access Areas, or who will have access to the Inventory Tracking System account of the Retail Marijuana Establishment(s) being operated as part of their duties, must have a valid Occupational License.

1. Associated Key Licenses. All natural persons who are Direct Beneficial Interest Owners in a Retail Marijuana Establishment Operator must have a valid Associated Key License, associated with the Retail Marijuana Establishment Operator License. Such an Associated Key License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Establishment Operator and for work performed on behalf of, or at the Licensed Premises of, the Retail Marijuana

Establishment(s) operated by the Retail Marijuana Establishment Operator.

2. Key Licenses. All other natural persons who are agents or employees of a Retail Marijuana Establishment Operator that are actively engaged, directly or indirectly, in the operation of other Retail Marijuana Establishments, must hold a Key License. The Key License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Establishment Operator and for work at the Licensed Premises of, or on behalf of, the Retail Marijuana Establishment(s) operated by the Retail Marijuana Establishment Operator.

B. Occupational Licenses Not Required. Occupational Licenses are not required for Indirect Beneficial Interest Owners of a Retail Marijuana Establishment Operator, Qualified Limited Passive Investors who are Direct Beneficial Interest Owners of a Retail Marijuana Establishment Operator, or for natural persons who will not come into contact with Retail Marijuana or Retail Marijuana Product, will not have access Limited Access Area(s) of the Retail Marijuana Establishment(s) being operated, and will not have access to the Inventory Tracking System account of the Retail Marijuana Establishment(s) being operated.

C. Designation of the Manager of a Retail Marijuana Establishment Operated by a Retail Marijuana Establishment Operator. If a Retail Marijuana Establishment Operator is contracted to manage the overall operations of a Retail Marijuana Establishment's Licensed Premises, the Retail Marijuana Establishment shall designate a separate and distinct manager on the Licensed Premises who is an officer, agent or employee of the Retail Marijuana Establishment Operator, which shall be a natural person with a valid Associated Key License or Key License, as set forth in paragraph A of this rule, and the Retail Marijuana Establishment shall comply with the reporting provisions of subsection 12-43.4-309(11), C.R.S.

Basis and Purpose – R 1704

The statutory authority for this rule is found at subsections 12-43.4-202(3)(a)(III), 12-43.4-202(2)(b), 12-43.4-202(3)(b), and 12-43.4-202(3)(b)(IX), C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Establishment Operators.

R 1704 – Retail Marijuana Establishment Operators: Business Records Required

A. General Requirement. A Retail Marijuana Establishment Operator must maintain all required business records as set forth in Rule R 901 - Business Records Required, except that:

1. A Retail Marijuana Establishment Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Retail Marijuana Establishment Operator will not come into contact with Retail Marijuana or Retail Marijuana Product at its separate place of business; and

2. A Retail Marijuana Establishment Operator is not required to maintain records related to inventory tracking, or transport, because a Retail Marijuana Establishment Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Retail Marijuana Establishment(s) operated by the Retail Marijuana Establishment Operator shall be maintained at the Licensed Premises of such Retail Marijuana Establishment(s).

B. All records required to be maintained shall be maintained at the Retail Marijuana Establishment Operator's separate place of business, and not at the Licensed Premises of the Retail Marijuana Establishment(s) it operates.

STATEMENT OF ADOPTION

To: Jim Burack, Director, Marijuana Enforcement Division

From: Barbara J. Brohl, Executive Director and State Licensing Authority of the Colorado Department of Revenue

Re: Statement of Adoption

Revised Medical Marijuana Rules, 1 CCR 212-1
Revised Retail Marijuana Rules, 1 CCR 212-2

Pursuant to the state Administrative Procedure Act, Title 24, Article 4, of the Colorado Revised Statutes, I, Barbara J. Brohl, Executive Director of the Colorado Department of Revenue and State Licensing Authority, promulgate the following rules:

Permanent Rules, Medical Marijuana, 1 CCR 212-1

Secretary of State Filing Tracking Number 2016-00342

M 100 Series – General Applicability

M 103 (Revised) – Definitions

M 200 Series – Licensing and Interests

M 201(Renamed & Revised) – Application Process

M 201.5 (Repealed) – Complete Applications Required for Permitted Economic Interests: Medical Marijuana Businesses

M 202 (Repealed) – Process for Issuing a New License: Medical Marijuana Businesses

M 202.1 (New) – Applications, Agreements, Contracts and Certifications Required for Indirect Beneficial Interest Owners: Medical Marijuana Businesses

M 202.5 (Repealed) – Process for Obtaining a Permitted Economic Interest: Medical Marijuana Businesses

M 203 (Revised) – Process for Renewing a License: Medical Marijuana Businesses

M 204 (Renamed & Revised) – Ownership Interests of a License: Medical Marijuana Businesses

M 204.5 (New) – Disclosure, Approval and Review of Business Interests

M 205 (Renamed & Revised) – Transfer of Ownership and Changes in Business Structure: Medical Marijuana Businesses

M 206 (Revised) – Changing Location of the Licensed Premises: Medical Marijuana Businesses

M 211 (Revised) – Conversion - Medical Marijuana Business to Retail Marijuana Establishment

M 230 (Repealed) – Complete Applications Required: Individuals

M 231 (Renamed & Revised) – Qualifications for Licensure and Residency

M 231.1 (New) – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners

M 231.2 (New) – Qualifications for Indirect Beneficial Interest Owners and Qualified Limited Passive Investors

M 231.5 (Repealed) – Qualifications for Permitted Economic Interests: Individuals

M 232 (Renamed & Revised) – Factors Considered When Determining Residency and Citizenship: Individuals

M 233 (Revised) – Medical Code or Retail Code Occupational Licenses Required

M 251 (Revised) – Application Denial and Voluntary Withdrawal: All Licensees

M 252 (Renamed & Revised) – Length of License: All Licensees Except Retail Marijuana Transporters and Occupational Licenses

M 300 Series – The Licensed Premises

M 301 (Revised) – Limited Access Areas

M 302 (Revised) – Possession of Licensed Premises

M 304 (Revised) – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

M 308 (Renamed & Revised) – Selling and Serving Medical Marijuana and Medical Marijuana-Infused Product: Hours of Operation

M 400 Series – Medical Marijuana Centers

M 401 (Revised) – Medical Marijuana Center: License Privileges

M 403 (Revised) – Medical Marijuana Sales: General Limitations or Prohibited Acts

M 406 (Revised) – Medical Marijuana Center: Inventory Tracking System

M 500 Series – Medical Marijuana Optional Premises Cultivation Operation: License Privileges

M 501 (Revised) – Medical Marijuana Optional Premises Cultivation Operation: License Privileges

M 502 (Revised) – Medical Marijuana Optional Premises Cultivation Operation: General Limitations or Prohibited Acts

M 503 (Revised) – Medical Marijuana Optional Premises Cultivation Operation: Inventory Tracking System

M 506 (Revised) – Optional Premises Cultivation Operation: Medical Marijuana Concentrate Production

M 600 Series – Medical Marijuana-Infused Products Manufacturers

M 601 (Revised) – Medical Marijuana-Infused Products Manufacturer: License Privileges

M 602 (Revised) – Medical Marijuana-Infused Products Manufacturer: General Limitations or Prohibited Acts

M 603 (Revised) – Medical Marijuana-Infused Products Manufacturer: Inventory Tracking System

M 604 (Revised) – Medical Marijuana-Infused Products Manufacturer: Health and Safety Regulations

M 700 Series – Medical Marijuana Testing Facilities

M 701.5 (Revised) – Medical Marijuana Testing Facilities: License Privileges

M 702 (Revised) – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

M 703 (Revised) – Medical Marijuana Testing Facilities: Certification Requirements

M 704 (Revised) – Medical Marijuana Testing Facilities: Personnel

M 712 (Revised) – Medical Marijuana Testing Facilities: Sampling and Testing Program

M 800 Series – Transport and Storage

M 801 (Renamed & Revised) – Transport of Medical Marijuana, Medical Marijuana Vegetative Plants, and Medical Marijuana-Infused Product: All Medical Marijuana Businesses

M 802 (Renamed & Revised) – Off-Premises Storage of Medical Marijuana and Medical Marijuana-Infused Product: All Medical Marijuana Businesses

M 900 Series – Business Records

M 905 (New) – Department Information Access

M 1000 Series – Labeling, Packaging, and Product Safety

M 1001.5 (Revised) – Labeling and Packaging Requirements: General Applicability

M 1002.5 (Revised) – Packaging and Labeling of Medical Marijuana by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer

M 1003.5 (Revised) – Packaging and Labeling of Medical Marijuana Concentrate by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer

M 1004.5 (Revised) – Packaging and Labeling Requirements of a Medical Marijuana Infused-Product by a Medical Marijuana-Infused Products Manufacturer

M 1005 (Revised) – Packaging and Labeling of Medical Marijuana by a Medical Marijuana Center

M 1006 (Revised) – Packaging and Labeling of Medical Marijuana Infused-Product by a Medical Marijuana Center

M 1007 (Revised) – Packaging and Labeling of Medical Marijuana Concentrate by a Medical Marijuana Center

M 1100 Series – Signage and Advertising

M 1101 (Repealed) – General Requirement: False and Misleading Statements

M 1102 (New) – Advertising General Requirement: No Deceptive, False or Misleading Statement

M 1103 (New) – The Term "Minor" as Used in the Medical Code and These Rules

M 1104 (New) – Advertising: Television

M 1105 (New) – Advertising: Radio

M 1106 (New) – Advertising: Print Media

M 1107 (New) – Advertising: Internet

M 1108 (New) – Advertising: Targeting Out-of-State Persons Prohibited

M 1109 (New) – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

M 1110 (New) – Signage and Advertising: No Safety Claims Because Tested by a Medical Marijuana Testing Facility

M 1111 (New) – Signage and Advertising: Outdoor Advertising

M 1112 (New) – Signage and Advertising: No Content That Targets Minors

M 1113 (New) – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

M 1114 (New) – Pop-Up Advertising

M 1115 (New) – Advertising: Event Sponsorship

M 1300 Series – Discipline

M 1302 (Renamed & Revised) – Summary Suspensions

M 1304 (Revised) – Administrative Hearings

M 1500 Series – Medical Marijuana Testing Program

M 1501 (Revised) – Medical Marijuana Testing Program – Contaminant Testing

M 1502 (Revised) – Medical Marijuana Testing Program – Mandatory Testing

M 1504 (Revised) – Medical Marijuana Testing Program – Sampling Procedures

M 1507 (Revised) – Medical Marijuana Testing Program – Contaminated Product and Failed Test Results

M 1600 Series – Medical Marijuana Transporters

M 1601 (New) – Medical Marijuana Transporter: License Privileges

M 1602 (New) – Medical Marijuana Transporter: General Limitations or Prohibited Acts

M 1603 (New) – Medical Marijuana Transporter: Inventory Tracking System

M 1604 (New) – Medical Marijuana Transporter: Health and Safety Regulations

M 1700 Series – Medical Marijuana Business Operators

M 1701 (New) – Medical Marijuana Business Operator: License Privileges

M 1702 (New) – Medical Marijuana Business Operators: General Limitations or Prohibited Acts

M 1703 (New) – Medical Marijuana Business Operators: Occupational Licenses for Personnel

M 1704 (New) – Medical Marijuana Business Operators: Business Records Required

Permanent Rules, Retail Marijuana, 1 CCR 212-2

Secretary of State Filing Tracking Number 2016-00343

R 100 Series – General Applicability

R 103 (Revised) – Definitions

R 200 Series – Licensing and Interests

Rule R 207 (Revised) – Schedule of Application Fees: Retail Marijuana Establishments

R 201 (Renamed & Revised) – Application Process

R 201.5 (Repealed) – Complete Applications Required for Permitted Economic Interests: Retail Marijuana Establishments

R 202 (Repealed) – Process for Issuing a New License: Retail Marijuana Establishments

R 202.1 (New) – Applications, Agreements, Contracts and Certifications Required for Indirect Beneficial Interest Owners: Retail Marijuana Establishments

R 202.5 (Repealed) – Process for Obtaining a Permitted Economic Interest: Retail Marijuana Establishments

R 203 (Revised) – Process for Renewing a License: Retail Marijuana Establishments

R 204 (Renamed & Revised) – Ownership Interests of a License: Retail Marijuana Establishments

R 204.5 (New) – Disclosure, Approval and Review of Business Interests

R 205 (Revised) – Transfer of Ownership and Changes in Business Structure: Retail Marijuana Establishments

R 206 (Revised) – Changing Location of Licensed Premises: Retail Marijuana Establishments

R 211 (Revised) – Conversion - Medical Marijuana Business to Retail Marijuana Establishment Pursuant to 12-43.4-104(1)(a)(I), C.R.S.

R 212 (Revised) – New Applicant Retail Marijuana Cultivation Facilities Licensed Pursuant To 12-43.4-104(1)(b)(II), C.R.S.

R 230 (Repealed) – Complete Applications Required: Individuals

R 231 (Renamed & Revised) – Qualifications for Licensure and Residency

R 231.1 (New) – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners

R 231.2 (New) – Qualifications for Indirect Beneficial Interest Owners and Qualified Limited Passive Investors

R 231.5 (Repealed) – Qualifications for Permitted Economic Interests: Individuals

R 232 (Renamed & Revised) – Factors Considered When Determining Residency and Citizenship: Individuals

R 233 (Revised) – Retail Code or Medical Code Occupational Licenses Required

R 251 (Revised) – Application Denial and Voluntary Withdrawal: All Licensees

R 252 (Renamed & Revised) – License Must Be Renewed Each Year: All Licensees Except Retail Marijuana Transporters and Occupational Licenses

R 300 Series – The Licensed Premises

R 301 (Revised) – Limited Access Areas

R 302 (Revised) – Possession of Licensed Premises

R 304 (Revised) – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

R 308 (Renamed & Revised) – Selling and Serving, Retail Marijuana and Retail Marijuana Product - Hours of Operation

R 400 Series – Retail Marijuana Stores

R 401 (Revised) – Retail Marijuana Store: License Privileges

R 402 (Revised) – Retail Marijuana Sales: General Limitations or Prohibited Acts

R 404 (Revised) – Acceptable Forms of Identification for Retail Sales

R 405 (Revised) – Retail Marijuana Store: Inventory Tracking System

R 500 Series – Retail Marijuana Cultivation Facilities

R 501 (Revised) – Retail Marijuana Cultivation Facility: License Privileges

R 502 (Revised) – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

R 503 (Revised) – Retail Marijuana Cultivation Facility: Inventory Tracking System

R 505 (Revised) – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

R 600 Series – Retail Marijuana Products Manufacturing Facilities

R 601 (Revised) – Retail Marijuana Products Manufacturing Facilities: License Privileges

R 602 (Revised) – Retail Marijuana Products Manufacturing Facility: General Limitations or Prohibited Acts

R 603 (Revised) – Retail Marijuana Products Manufacturing Facility: Inventory Tracking System

R 604 (Revised) – Retail Marijuana Products Manufacturing Facility: Health and Safety Regulations

R 700 Series – Retail Marijuana Testing Facilities

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R 702 (Revised) – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

R 703 (Revised) – Retail Marijuana Testing Facilities: Certification Requirements

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R 905 (New) – Department Information Access

R 1000 Series – Labeling, Packaging, and Product Safety

R 1001 (Revised) – Labeling and Packaging Requirements: General Applicability

R 1002.5 (Revised) – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

R 1003.5 (Revised) – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility.

R 1004 (Revised) – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

R 1005.5 (Revised) – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Store

R 1006 (Revised) – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

R 1007.5 (Revised) – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Store

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R 1500 Series – Retail Marijuana Testing Program

R 1501 (Revised) – Retail Marijuana Testing Program – Contaminant Testing

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R 1504 (Revised) – Retail Marijuana Testing Program – Sampling Procedures

R 1507 (Revised) – Retail Marijuana Testing Program – Contaminated Product and Failed Test Results

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R 1601 (New) – Retail Marijuana Transporter: License Privileges

R 1602 (New) – Retail Marijuana Transporter: General Limitations or Prohibited Acts

R 1603 (New) – Retail Marijuana Transporter: Inventory Tracking System

R 1604 (New) – Retail Marijuana Transporter: Health and Safety Regulations

R 1700 Series – Retail Marijuana Establishment Operators

R 1701 (New) – Retail Marijuana Establishment Operator: License Privileges

R 1702 (New) – Retail Marijuana Establishment Operators: General Limitations or Prohibited Acts

R 1703 (New) – Retail Marijuana Establishment Operators: Occupational Licenses for Personnel

R 1704 (New) – Retail Marijuana Establishment Operators: Business Records Required

Signed this 13th day of October, 2016.

Barbara J. Brohl
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Office of the Attorney General

Tracking number: 2016-00343

Opinion of the Attorney General rendered in connection with the rules adopted by the

Marijuana Enforcement Division

on 10/13/2016

1 CCR 212-2

RETAIL MARIJUANA RULES

The above-referenced rules were submitted to this office on 10/13/2016 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 28, 2016 13:28:30

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Division of Public School Capital Construction Assistance

CCR number

1 CCR 303-1

Rule title

1 CCR 303-1 RULES PERTAINING TO THE ADMINISTRATION OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD 1 - eff 11/30/2016

Effective date

11/30/2016

DEPARTMENT OF EDUCATION

Division of Public School Capital Construction Assistance

PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES

1 CCR 303-1

PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES

Article 1 – Purpose and Authority to Promulgate Rules

1.1. Purpose

1.1.1. Section 22-43.7-107(1)(a), C.R.S. states, The board shall establish public school facility construction guidelines for use by the board in assessing and prioritizing public school capital construction needs throughout the state as required by section 22-43.7-108, C.R.S. reviewing applications for financial assistance, and making recommendations to the state board regarding appropriate allocation of awards of financial assistance from the assistance fund only to applicants. The board shall establish the guidelines in rules promulgated in accordance with article 4 of title 24, C.R.S.

1.1.2. Section 22-43.7-107(1)(b), C.R.S. states, It is the intent of the general assembly that the Public School Facility Construction Guidelines established by the board be used only for the purposes specified in section 1.1.1 above.

1.1.3. The Public School Facility Construction Guidelines shall identify and describe the capital construction, renovation, and equipment needs in public school facilities and means of addressing those needs that will provide educational and safety benefits at a reasonable cost.

1.2. Statutory Authority

1.2.1. Section 22-43.7-106(2)(i)(I) C.R.S. states, the board may promulgate rules in accordance with article 4 of title 24, C.R.S. The board is directed to establish Public School Facility Construction Guidelines in rule pursuant to 22-43.7-107(1)(a), C.R.S.

Article 2 – Definitions

2.1. The definitions provided in 22-43.7-103, C.R.S., shall apply to these rules. The following additional definitions shall also apply:

"C.R.S." means Colorado Revised Statutes.

"ES" means Elementary School.

"F.T.E.s" means Full Time Equivalent Students.

"Gross Square Feet (GSF)" means the total area of the building (inclusive of all levels as applicable) of a building within the outside faces of the exterior walls, including all vertical circulation and other shaft (HVAC) areas connecting one floor to another.

"Guidelines" means the Public School Facility Construction Guidelines.

"Historical significance" means having importance in the history, architecture, archaeology, or culture of this state or any political subdivision thereof or of the United States, as determined by the state historical society.

“HS” means High School.

“K12” means Kindergarten through 12th Grade School that is under all one facility / campus.

“MS” means Middle School.

“SF” means Square Foot.

“S.T.E.M.” means Science, Technology, Engineering, & Mathematics.

Article 3 – Codes, Documents and Standards incorporated by reference

3.1. The following materials are incorporated by reference within the Public School Facility Construction Guidelines:

3.1.1. ASHRAE 90.1-2013 Energy Standard for Buildings Except Low-Rise Residential Buildings.

3.1.2. ASHRAE Standard Benchmark Energy Utilization Index (October 2009).

3.1.3. ASHRAE Standard 189.1 - 2011 Standard for the Design of High-Performance Green Buildings.

3.1.4. ANSI/ASA S12.60-2010/ Part 1, Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Part 1 Permanent Schools

3.1.5. International Code Council’s International Plumbing Code (2015) amended by Rules and Regulations of the Colorado State Plumbing Board 3 CCR 720-1, 2016-4-1

3.1.6. National Fire Protection Association (NFPA) 70: National Electrical Code (2014).

3.1.7. National Fire Protection Association (NFPA) 13: Standard for the Installation of Sprinkler Systems, 2013 Edition

3.1.8. National Fire Protection Association (NFPA) 72: National Fire Alarm and Signaling Code, 2013 Edition.

3.1.9. National Fire Protection Association (NFPA) 80: Standard for Fire Doors and Other Opening Protectives, 2016 Edition

3.1.10. ASHRAE Standard 62.1-2013 Ventilation for Acceptable Indoor Air Quality (2013).

3.1.11. Colorado Department of Public Health and Environment which references Air Quality, Hazardous Waste, Public and environmental health, Radiation Control, Solid Waste and Water Quality.

3.1.12. International Fire Code (IFC) – 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.), including Appendices B and C.

3.1.13. International Mechanical Code - 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.)

3.1.14. International Energy Conservation Code (IECC) - 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.)

3.1.15. International Existing Building Code – 2015 Edition, First Printing: May 2014 (Copyright 201 by International Code Council, Inc. - Washington, D.C.)

3.1.16. All projects shall be constructed and maintained in accordance with the codes and regulations as currently adopted by the Colorado Division of Fire Prevention & Control which incorporates current building, fire, existing building, mechanical, and energy conservation codes.

3.2. The Division shall maintain copies of the complete texts of the referenced incorporated materials, which are available for public inspection during regular business hours with copies available at a reasonable charge. Interested parties may inspect the referenced incorporated materials by contacting the Director of the Division of Public School Capital Construction Assistance, 1580 Logan Street, Suite 310, Denver, Colorado 80203.

3.3. This rule does not include later amendments or editions of the incorporated material.

Article 4 - These Guidelines are not mandatory standards to be imposed on school districts, charter schools, institute charter schools, the boards of cooperative services or the Colorado School for the Deaf and Blind. As required by statute, the Guidelines address:

4.1 <u>Health and safety issues, including security needs and all applicable health, safety and environmental codes and standards as required by state and federal law. Public school facility accessibility.</u>

4.1.1 **Sound building structures.** Each building should be constructed and maintained with sound structural foundation, floor, wall and roof systems.

4.1.1.1 - All building structures shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.2 **Classroom Acoustics**. To address issues of reverberation time and background noise in classrooms refer to ANSI/ASA S12.60-2010/ Part 1, American National Standard Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Part 1: Permanent Schools.

4.1.3 **Roofs.** A weather-tight roof that drains water positively off the roof and discharges the water off and away from the building. All roofs shall be installed by a qualified contractor who is approved by the roofing manufacturer to install the specified roof system and shall receive the specified warranty upon completion of the roof. The National Roofing Contractors Association divides roofing into two generic classifications: low-slope roofing and steep-slope roofing. Low-slope roofing includes water impermeable, or weatherproof types of roof membranes installed on slopes of less than or equal to 3:12 (fourteen degrees). Steep slope roofing includes water-shedding types of roof coverings installed on slopes exceeding 3:12 (fourteen degrees).

4.1.3.1 - Low slope roofing systems:

4.1.3.1.1 - Built-up – minimum 4 ply, type IV fiberglass felt, asphalt BUR system. Gravel or cap sheet surfacing required.

4.1.3.1.2 - Ethylene Propylene Diene Monomer - minimum 60 mil EPDM membrane, with a ballasted or adhered system.

4.1.3.1.3 - Poly Vinyl Chloride - minimum 60 mil PVC membrane adhered or mechanically attached systems.

4.1.3.1.4 - Thermal Polyolefin - minimum 60 mil membrane adhered or mechanically attached systems.

4.1.3.1.5 - Polymer-modified bitumen sheet membrane - Styrene-Butadiene-Styrene (SBS) membranes only, to be used only as a component of a built-up system noted above.

4.1.3.2 - Steep slope roofing systems:

4.1.3.2.1 - Asphalt shingles - minimum 50 year spec asphalt shingles, UL Class A.

4.1.3.2.2 - Clay tile and concrete tile - minimum 50 year spec clay or concrete tile, UL Class A.

4.1.3.2.3- Metal roof systems for steep-slope applications - minimum 24 gage prefinished steel, standing seam roof system with a minimum 1.5" seam height.

4.1.3.2.4- Slate - ¼" minimum thickness, 50 year spec. UL Class A.

4.1.3.2.5- Synthetic shingles - minimum 50 year spec, UL Class A.

4.1.4 **Electrical Systems – Power Distribution and Utilization.** Safe and secure electrical service and distribution systems shall be designed and installed to meet the National Electrical Code (NEC, NFPA 70); edition as enforced by the Colorado State Buildings Programs (SBP), unless otherwise more stringent based on local Authority Having Jurisdiction (AHJ), and ANSI/ASHRAE/IES Standard 90.1-2013 "Energy Standard for Buildings Except Low-Rise Residential Buildings".

4.1.4.1 – Energy use intensity should not exceed the U.S. Department of Energy (DOE) building benchmarks, and shall conform to ASHRAE Standard Benchmark Energy Utilization Index (October 2009).

4.1.4.2- Emergency lighting shall operate when normal lighting systems fail in locations and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.5 **Lighting Systems.** Lighting systems shall be designed and installed to achieve appropriate lighting levels utilizing energy-efficient lighting fixtures and energy-saving automatic and manual control systems.

4.1.5.1 **-** Lighting systems shall be designed and installed to meet the National Electrical Code (NEC, NFPA 70) edition as enforced by the Colorado State Buildings Programs (SBP), unless otherwise more stringent based on local Authority Having Jurisdiction (AHJ).

4.1.5.2 **–** Illuminance levels shall meet the requirements for applicable spaces as recommended within in the Illuminating Engineering Society (IES) Handbook, and dictated by the Rules and Regulations Governing Schools in the State of Colorado 6 CCR 1010-6.

4.1.5.3 **–** Lighting power density shall not exceed the values indicated in ANSI/ASHRAE/IES Standard 90.1-2013.

4.1.5.4 - Lighting Control Systems shall be provided to comply with ANSI/ASHRAE/IES Standard 90.1-2013.

4.1.6 **Mechanical Systems – Heating, Ventilation, and Air Conditioning (HVAC).** Safe and energy efficient mechanical systems shall be designed and installed to provide proper ventilation, and maintain the building temperature and relative humidity, while achieving appropriate sound levels.

4.1.6.1 – Mechanical systems shall be designed and installed to meet the International Mechanical Code, International Fuel Gas Code, International Building Code, and other Codes as adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507.

4.1.6.2- Healthy building indoor air quality (IAQ) shall be provided through the use of the mechanical heating, ventilation and air conditioning (HVAC) systems, or by operable windows, and by reducing air infiltration and water penetration with a tight building envelope, in compliance with the enforced International Building Code and ASHRAE Standard 62. 1- 2013.

4.1.6.3- Mechanical systems shall comply with: ASHRAE Standard 62.1-2013 Ventilation for Acceptable Indoor Air Quality, ASHRAE Standard 90.1-2013 Energy Standard for Buildings Except Low-Rise Residential Buildings, and ASHRAE Standard 189.1-2014 Standard for the Design of High-Performance Green Buildings.

4.1.6.4 Sound levels due to mechanical equipment shall comply with Occupational Safety & Health Administration Standard 1910.95 and ANSI/ASA Standard S12.60-2010 Part 1 for acoustical considerations within school facilities.

4.1.7 **Plumbing Systems -** Waste Water, Storm water, Domestic Water and Plumbing Supporting HVAC shall be in compliance with Division of Fire Prevention and Control in 8 CCR1507 and the Colorado Department of Health & Environment regulations.

4.1.8 **Fire Protection Systems.** Building fire detection, alarm and emergency notification systems in all school facilities shall be designed in accordance with State requirements. Exceptions where code required systems are not mandatory and the occupancy classification according to the International Building Code 2015 does not warrant a system. All fire management systems shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 and the adopted Fire Code.

4.1.8.1 - Types of fire alarm notifications systems.

4.1.8.1.1– Internal audible and visual alarms.

4.1.8.1.2– External alarm monitoring and dispatch via internet / modem, telephone, radio, or cellular monitoring systems.

4.1.8.2 - Automatic Sprinkler Systems in Group E Occupancy a sprinkler system shall be provided as noted in the adopted Fire Code. Refer to the adopted Fire Code for exceptions.

4.1.8.2.1 All Group E fire areas greater than 12,000 square feet in area.

4.1.8.2.2 Throughout every portion of educational buildings below the lowest level of exit discharge serving that portion of the building.

4.1.8.3 - Types of Fire Protection Water Supplies.

4.1.8.3.1 - Fire hydrants.

4.1.8.3.2 - Static fire water storage tanks.

4.1.9 **Means of egress.** A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a *public way*. A means of egress consists of three separate and distinct parts: the exit access, the *exit* and the *exit discharge*. Reference 2015 International Building Code, Chapter 2, Definitions. A building code analysis shall be conducted to determine all code requirements.

4.1.10 **Facilities with safely managed hazardous materials.** Potential hazardous materials in building components, which are identified in the Asbestos Hazard Emergency Response Act (AHERA) report, may include: asbestos, radon, lead, lamps and devices containing mercury. Additional hazardous materials may include: science chemicals, cleaning chemicals, blood-borne pathogens, acid neutralization tank for science departments, and bulk fuel storage (UST/AST) management that may be stored by the occupant.

4.1.10.1 - Public schools shall comply with all AHERA criteria and develop, maintain, and update an asbestos management plan, to be kept on record at the school district. This should include a building survey of the exterior of the building, and identification of all friable, non-friable, and trace asbestos materials. Reference regulation Number 8, Control of Hazardous Air Pollutants, 5 CCR 1001-10.

4.1.10.2 - All new facilities and additions shall conduct radon testing following completion of construction within nineteen months after occupancy as required by Colorado Department of Public Health and Environment, 6 CCR 1010-6.

4.1.10.3 - Lead based paint. All schools shall conform to the regulations adopted by the Colorado Air Quality Control Commission governing the abatement of lead-based paint from target housing (constructed prior to 1978) and child-occupied facilities, reference C.R.S. 25-5-1101.

4.1.11 **Security.** The degree of resistance to, or protection from, harm. It applies to any vulnerable and valuable asset; such as a person, building or dwelling. Security provides "a form of protection where a separation is created between the assets and the threat." These separations are generically called "controls," and sometimes include changes to the asset or the threat. These separations and degrees of resistance can be achieved through several models and techniques.

4.1.11.1 - Video Management Systems (VMS).

4.1.11.1.1 - Cameras. Video cameras are typically used to implement a video management system. In new construction, these should be internet protocol (IP) cameras on Power over Ethernet (PoE) cabling infrastructure, with color CCD, day-night operation and supplemental IR illuminators and environmental accessories as required for application, Cameras should support motion activation, digital zoom and focus, and standard video compression. Fixed and pan-tilt-zoom (PTZ) cameras shall be considered to meet requirements. Consideration shall be given to cameras with integral audio microphones.

4.1.11.1.2 - Monitoring & Recording Systems. - A central video management system should be capable of monitoring live feeds from multiple cameras from a central location and remote locations, recording all video, searching and reviewing recorded video, and exporting video to portable digital media. A minimum of 30 days of storage of all videos at 15fps (frames per second) is required.

4.1.11.2 - Controlled Access.

4.1.11.2.1 - General Requirements

4.1.11.2.1.1 - The number of entryways into the building or onto the campus should be limited. New construction shall be designed to restrict normal entrance to only one or two locations, with no recessed doorways, provided that sufficient entryways are available for fire department access and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.11.2.1.2 - All exterior doors shall be locking and equipped with panic bars to open readily from the egress side. Panic bars should utilize flush push bar hardware to prevent chaining doors shut.

4.1.11.2.1.2.1 - Unless a door is intended for ingress, exterior doors should not have handles and locks on the outside. In all cases exposed hardware should be minimized, provided that sufficient entryways are available for fire department access and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.11.2.1.3 - Doors should be constructed of steel, aluminum alloy, or solid-core hardwood. If necessary, glass doors should be fully framed and equipped with burglar-resistant tempered glass. Translucent glass should be avoided in all cases.

4.1.11.2.1.4 - Exit doors with panic push-bars should be “Access Control Doors” per the codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR

1507-30, to prevent easy access by criminals and vandals, or in a lock-down / lock-out situation.

4.1.11.2.1.5 - Heavy-duty metal or solid-core wooden doors should be used at entrances in areas containing expensive items. These areas include classrooms, storerooms, and custodians' rooms. Interior doorway doors should also be heavy-duty metal or solid-core wooden doors.

4.1.11.2.1.6 - Door hinges should have non-removable pins.

4.1.11.2.1.7 - Door frames should be constructed of pry-proof material.

4.1.11.2.1.8 - Armored strike plates shall be securely fastened to the door frame in direct alignment to receive the latch easily.

4.1.11.3 - Automated Locking Mechanisms.

4.1.11.3.1.1 Use of automated locking mechanisms (electronic access control) should be considered for exterior doors identified for entry and select interior doors associated with the main entry vestibule.

4.1.11.3.1.2 Acceptable automated electronic access control systems include RF-based proximity credential readers and biometric scanning devices. If the electronic access control systems are to be utilized the following shall apply:

4.1.11.3.1.2.1 - School personnel may be issued credentials for authenticating their identity in order to maintain efficient access to school facilities.

4.1.11.3.1.2.2 Students are not necessarily expected to carry electronic access control credentials. During normal arrival times, electronic locking systems may be disengaged via a timer while entries are monitored by school personnel.

4.1.11.3.1.2.3 All exterior doors shall utilize door position switches to notify staff of open doors and eliminate "door propping".

4.1.11.3.1.2.4 Doors utilizing electronic access controls shall "fail secure" from the unsecure side. Free egress shall not be inhibited from the secure side in any scenario.

4.1.11.4 Manual Locking Devices

4.1.11.4.1 Use of a manual locking mechanism, such as traditional cylinder and key locks, should be provided for all interior doors requiring access control.

4.1.11.4.2 Manual and Electronic access control should not be used on the same door.

4.1.11.5 Emergency Lockdown

4.1.11.5.1 All exterior doors shall be able to be quickly and automatically secured from a position of safety (Administrative desk, Principal's office, etc) without traveling to each individual exterior door.

4.1.11.5.2 Interior doors to occupied spaces shall be capable of quickly being secured from the inside by school personnel. Locking of doors may be done via manual deadbolt or automatic locking mechanism. Locking mechanism shall not interfere with automatic closing and latching functions required by the fire code and may have door sidelights, or door vision glass that allow line of sight into the corridors during emergencies, and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.11.6 Intrusion Detection

4.1.11.6.1 A system shall be put in place to identify, alarm, and notify authorities in the case of unauthorized entry.

4.1.11.7 Alarm System

Passive infrared (PIR) sensors shall be located interior to all building entries to monitor human movement.

4.1.11.7.1.1 – An alarm keypad shall be located at selected building entries to arm and disarm the intrusion detection system.

4.1.11.7.1.2 – A manual alarm device shall be located in a position of safety (Administrative desk, Principal's office, etc.) to force intrusion detection system into alarm status.

4.1.11.7.1.3 – The intrusion detection shall notify local authorities or monitoring company upon alarm status.

4.1.11.8 Security Integration

4.1.11.8.1 The Video Management System (VMS), Access Control System, and Intrusion Detection System may be components of an integrated security solution.

4.1.11.9 - Main Entry Physical Security

4.1.11.9.1 - Building vestibules. Where appropriate, buildings shall employ double entry door designs that provide a secured area for visitors to authenticate and gain clearance. Known as "man traps", security vestibules solve several common security issues such as students opening doors for visitors, visitors bypassing check-in points, direct access to the interior from attackers, piggy-back entrances, and propped doors.

4.1.11.9.2 - Video based entrance intercom systems. Building designs shall allow for school personnel to be able to monitor incoming visitors from a safe location out of reach, or line of site from incoming visitors who have not yet been authenticated or cleared for entry. These entry points shall use remote video and access control technology to conduct multi-factor authentication of incoming visitors (e.g. visual verification and ID, PIN/password and ID, or biometric and other form of visual identification).

4.1.11.9.2.1 - Video based entrance systems shall use IP technology to allow access control to be conducted by school personnel from multiple locations, so that multiple personnel can provide coverage for screening incoming visitors.

4.1.11.9.3 - Line of sight. The front entrance should be designed to maximize the line of sight distance for school occupants to detect an intruder from each relevant perimeter (e.g.

classroom to hallway, office or guard station to entryway, or entryway to exterior fence access, or exterior fence access to property perimeter).

4.1.11.10 - Event alerting and notification (EAN) system. An EAN system that utilizes an intercom / phone system with communication devices located in all classrooms and throughout the school to provide efficient inter-school communications, and communication with local fire, police, and medical agencies during emergency situations.

4.1.11.11 - Secure sites should include the following:

4.1.11.11.1 - Locations to avoid.

4.1.11.11.2 - Location of utilities.

4.1.11.11.3 - Roof access.

4.1.11.11.4 - Lighted walkways.

4.1.11.11.5 - Secured playgrounds.

4.1.11.11.6 - Bollards at main entrances and shop areas with overhead doors.

4.1.11.11.7 - Signage.

4.1.12 **Health code standards.** Schools, including labs, shops, vocational and other areas with hazardous substances shall conform to the Department Of Public Health and Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.

4.1.13 **Food preparation equipment and maintenance**. Food preparation and associated facilities equipped and maintained to provide sanitary facilities for the preparation, distribution, and storage of food as required by Department Of Public Health And Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.

4.1.14 **Health care room.** A separate health care room shall be provided and shall comply with the Department Of Public Health and Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.

4.1.15 **A site that safely separates pedestrian and vehicular traffic and is laid out with the following guidelines:**

4.1.15.1 - Physical routes for basic modes (busses, cars, pedestrians, and bicycles) of traffic should be separated as much as possible from each other. If schools are located on busy streets and/or high traffic intersections, coordinate with the applicable municipality or county to provide for adequate signage, traffic lights, and crosswalk signals to assist school traffic in entering the regular traffic flow.

4.1.15.2 - When possible, provide a dedicated bus staging and unloading area located away from students, staff, and visitor parking.

4.1.15.3 - Provide an adequate driveway zone for stacking cars on site for parent drop-off/pick-up zones. Drop-off area design should not require backward movement by vehicles, and be one-way

in a counterclockwise direction where students are loaded and unloaded directly to the curb/sidewalk. Students should not have to load or unload where they have to cross a vehicle path before entering the building. It is recommended all loading areas have “No Parking” signs posted.

4.1.15.4 - Provide well-maintained sidewalks and a designated safe path leading to the school entrance(s).

4.1.15.5 - Building service loading areas and docks should be independent from other traffic and pedestrian crosswalks. If possible, loading areas shall be located away from school pedestrian entries.

4.1.15.6 - Facilities should provide bicycle access and storage if appropriate.

4.1.15.7 - Fire lanes shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 or the local fire department. Local fire department must adhere to the codes adopted by DFPC.

4.1.15.8 - Playgrounds shall comply with the ICC A117.1-2009 Accessible and Usable Buildings and Facilities and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.16 **Severe weather preparedness.**

4.1.16.1 - Designated emergency shelters shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 and ICC 500.

4.2 Technology, including but not limited to telecommunications and internet connectivity technology and technology for individual student learning and classroom instruction.

4.2.1 Educational facilities for individual student learning, classroom instruction, online instruction and associated technologies, connected to the Colorado institutions of higher education distant learning networks “Internet” and “Internet two.”

4.2.2 Educational facilities shall be supplied with standards-based wired and wireless network connectivity.

4.2.2 Security and associated filtering and intrusion control for internal voice, video and data networks shall be provided.

4.2.3 External internet service provider (ISP) connection and internal wide area network (WAN) connections meeting or exceeding recommended guidelines of the state education technology education directors association (SETDA) broadband imperative, and devices meeting or exceeding recommended specifications according to the most current version of technology guidelines for the partnership for assessment of readiness for college and careers (PARCC) assessments.

4.2.4 Provide school administrative offices with web-based activity access.

4.2.5 Building shall be constructed with long-term sustainable technology infrastructure. Facilities should be built with sufficient data cabling and/or conduit and power infrastructure to allow for maximum flexibility as technological systems are upgraded and replaced in the future. A plan for technology lifecycle review intervals should be put in place for review at 2-4 year intervals.

4.2.5.1 Applicable Standards. The design and installation of technology systems shall comply with:

4.2.5.1.1 ANSI/TIA/EIA-568-C

4.2.5.1.2 ANSI/TIA/EIA-569

4.2.5.1.3 ANSI/TIA/EIA-606-B

4.2.5.1.4 ANSI/TIA/EIA-607-B

4.2.5.1.5 ANSI/BICSI 001-2009, Information Transport Systems Design Standard for K-12 Educational Institutions.

4.2.6 Telecom Equipment Rooms

4.2.6.1 - Uninterruptible power supplies (UPS). Telecom Rooms (TRs) and Equipment Rooms (ERs) shall be provided with UPS equipment to provide continuous clean power to communications systems for a minimum of 90 minutes.

4.2.6.2 - Generators. A backup generator shall be considered for providing backup power to telecommunications systems of backup power is required beyond 9 minutes, or if the generator is already located for other purposes.

4.2.6.3 - Heating, Ventilation and Air Conditioning (HVAC). Mechanical equipment shall be used to accommodate heating loads within TRs and ERs. Ventilation-only systems may be used in spaces with limited equipment, active cooling systems should be considered for larger rooms. Maintained space temperatures shall target 65 degrees F. peak space temperatures shall not exceed 90 degrees F.

4.2.6.3.1 Direct evaporative cooling systems shall not be used, due to lack of control on humidity levels.

4.2.6.4 - Alarms shall be provided to notify assigned school personnel if environmental conditions approach or exceed bounds of operational conditions.

4.2.7 Connectivity standards.

4.2.7.1 - Wireless. Data cabling shall be planned to support appropriately spaced multiple-antenna wireless networking infrastructure allowing for wireless access points to support expected quantity of connected devices and required bandwidth. Support for 802.11b/g/n, 802.11ac, and/or newer protocols are recommended.

4.2.7.2 - Wired.

4.2.7.2.1 - Cabling. All new runs of copper data cable should be Category 6 cable or newer standards. Any data outlet should be supplied by two cables. Unshielded twisted pair (UTP) shall be used unless local conditions warrant otherwise.

4.2.7.2.2 - Telecom Rooms (TRs) and Equipment Rooms (ERs). TRs and ERs shall be connected by conduit and a combination of copper and fiber optic cable to allow for maximum data performance and upgradeability.

4.2.7.2.3 - TR to classroom. Classrooms should have a data outlet on the wall at the front and back of the room at a minimum for network/ internet access. Additional cabling may be warranted for security, audiovisual and special systems purposes.

4.2.7.2.4 - TR to office, and library or technology/media centers. Any areas designed for independent work or study should have a dedicated data ~~jack~~ outlet with two copper cable runs each.

4.2.7.2.5 - TR to common areas, auditorium, and cafeteria. Common areas should contain data outlets located as required to support program and curriculum requirements.

4.3 Building site requirements. Functionality of existing and planned public school facilities for core educational programs, particularly those educational programs for which the State Board has adopted state model content standards. Capacity of existing and planned public school facilities,

taking into consideration potential expansion of services for the benefit of students such as full-day kindergarten and preschool- and school-based health services and programs.

4.3.1 **Traditional education model, S.T.E.M. & Montessori / Expeditionary education models.**

4.3.1.1 - Minimum occupancy requirements for schools:

Median Gross Square Foot (GSF) Per Pupil								
	Traditional ES (K-5)		Traditional MS (6-8)		Traditional HS (9-12)		Traditional K-12	
F.T.E.s	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF
100	151	15,064	161	16,102	192	19,183	164	16,393
200	146	29,197	159	31,813	190	38,030	161	32,298
300	141	42,401	157	47,136	188	56,540	159	47,715
400	137	54,674	155	62,068	187	74,713	157	62,645
500	132	66,017	153	76,610	185	92,550	154	77,087
600	127	76,429	151	90,763	183	110,050	152	91,041
700	123	85,912	149	104,526	182	127,214	149	104,508
800	118	94,464	147	117,899	180	144,041	147	117,488
900	113	102,086	145	130,883	178	160,531	144	129,979
1000	109	108,778	143	143,476	177	176,685	142	141,984
1100	104	114,540	142	155,680	175	192,502	140	153,500
1200	99	119,371	140	167,494	173	207,982	137	164,529

Median Gross Square Foot Per Pupil - Alternate Programs (Expeditionary (Exp.), Montessori (Mtsri.), S.T.E.M.)												
	Alt. ES (GSF/Pupil)			Alt. MS (GSF/Pupil)			Alt. HS (GSF/Pupil)			Alt. K12 (GSF/Pupil)		
F.T.E.s	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.
100	160	161	156	171	169	166	203	198	201	174	172	180
200	155	156	151	169	167	164	202	196	199	171	170	177
300	150	151	146	167	165	162	200	194	197	169	167	175
400	145	146	141	164	163	160	198	192	195	166	164	172
500	140	141	137	162	161	158	196	191	194	163	162	169
600	135	136	132	160	159	156	194	189	192	161	159	167
700	130	131	127	158	157	154	193	187	190	158	157	164
800	125	126	122	156	155	152	191	185	188	156	154	161
900	120	121	117	154	153	150	189	184	187	153	152	159
1000	115	116	113	152	151	148	187	182	185	151	149	156
1100	110	111	108	150	149	146	186	180	183	148	146	153
1200	105	106	103	148	147	144	184	179	181	145	144	151

Square Foot Values - Assembly								
	ES Assembly		MS Assembly		HS Assembly		K12 Assembly	
F.T.E.s	Cafeteria	Auditorium	Cafeteria	Auditorium	Cafeteria	Auditorium	Cafeteria	Auditorium
100	675	1,300	675	1,500	675	1,700	675	1,700
200	1,200	1,600	1,200	1,800	1,200	2,000	1,200	2,000
300	1,800	1,900	1,800	2,100	1,800	2,300	1,800	2,300
400	2,400	2,400	2,400	2,600	2,400	2,800	2,400	2,800
500	3,000	2,700	3,000	2,900	3,000	3,100	3,000	3,100
600	3,600	3,000	3,600	3,200	3,600	3,400	3,600	3,400
700	4,200	3,900	4,200	3,900	4,200	3,900	4,200	3,900
800	4,800	4,200	4,800	4,200	4,800	4,200	4,800	4,200
900	5,400	4,500	5,400	4,500	5,400	4,500	5,400	4,500
1000	6,000	4,800	6,000	4,800	6,000	4,800	6,000	4,800
1100	6,600	5,100	6,600	5,100	6,600	5,100	6,600	5,100
1200	7,200	5,400	7,200	5,400	7,200	5,400	7,200	5,400

- Cafeteria Capacity assumes three (3) seatings without a secondary function overlay.
- Auditorium Capacity SF is sized for 1/3 of General enrollment and is inclusive of stage (size varies: 1,000 to 1,800); Basis is 9 SF per seat (1/3 FTES) plus stage at various sizes, stage includes a small amount of storage or similar support.

Square Foot (SF) Values - Core Classrooms (Minimum (Min) classroom size = 675 sf)								
	ES Min (24-30 FTES)		MS Min (24-30 FTES)		HS Min (24-30 FTES)		K12 Min (24-30 FTES)	
F.T.E.s	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF
Kindergarten	38	1,140	-	-	-	-	38	1,140
Grade 1	32	960	-	-	-	-	32	960
Grade 2	32	960	-	-	-	-	32	960
Grade 3	32	960	-	-	-	-	32	960
Grade 4	30	900	-	-	-	-	30	900
Grade 5	30	900	-	-	-	-	30	900
Grade 6	-	-	30	900	-	-	30	900
Grade 7	-	-	28	840	-	-	28	840
Grade 8	-	-	28	840	-	-	28	840
Grade 9	-	-	-	-	28	840	28	840
Grade 10	-	-	-	-	28	840	28	840
Grade 11	-	-	-	-	28	840	28	840
Grade 12	-	-	-	-	28	840	28	840
Montessori	40	1,200	40	1,200	40	1,200	40	1,200
Expeditionary	36	1,080	36	1,080	36	1,080	36	1,080

Square Foot (SF) Values - Exploratory Spaces (minimum size = 675 sf)								
	ES Min (24-30 F.T.E.s)		MS Min (24-30 F.T.E.s)		HS Min (24-30 F.T.E.s)		K12 Min (24-30 F.T.E.s)	
F.T.E.s	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF
Comp/Tech	30		32	-	32	-	32	
Music	35		35	-	35	-	35	
Science	38		40		44		44	
Lecture	28		28		28		28	
Art	35		40		45		45	
Gym / MP	3,000 SF (50'x60')		5,400 SF (60'x90')		7,300 SF (70'x104')		7,300 SF (70'x104')	
Special Ed	37		37		37		37	
VoAg	-	-	-	-	60	-	60	-
Media Center	1200 sf (30 occ)		2400 sf (60 occ)		3600 sf (60 occ)		3600 sf (60 occ)	
"Gymatorium"	4,400 SF (See notes)		4,400 SF (See notes)		-		-	

- ES Gymnasium basis is 50'X60' play area; Capacity Assumes (GE.25)/7 periods (without fixed seats)*
- MS Gymnasium basis is 60'X90' play area; Capacity Assumes (GE.5)/7 periods (without fixed seats)*
- HS Gymnasium basis is 70'X104' practice gym; Capacity Assumes (GE.5)/7 periods (with limited fixed seats) Note: National Federation of State High School Association's standards outline an "ideal" court for high school age as 84'x50' (and not greater than 94'x50')*
- "Gymatorium" basis is 50'x60' play area and 1000 SF platform stage with 400 SF storage

Instructor / Support Areas		
Space Type:	Square Feet	Notes:
Office - typical	120	
Office - large	150	
Work room	250	Multiple indivual (or in aggregate) may be required due to scale
Team planning (conf)	240	12-16 occupants (assembly use)
Instruction - sm group	320	16 occupants (classroom use)
Storage	50	Ave per instructor
Staff toilets	50	Multiple may be required due to scale

4.3.2 **Other rooms.**

4.3.2.1 - Facilities with preschools shall comply with Rules Regulating Child Care Centers (Less Than 24-Hour Care) 12 CCR 2509-8 and shall comply with the Colorado Department of Public Health and Safety's Regulations Governing Child Care, 6 CCR 1010-7.

4.3.2.2 - Special education classrooms. Special Education classrooms and facilities meeting or exceeding the accessibility and adaptive needs of the current and reasonably anticipated student population, in accordance with Section 504 and Title II of the Americans with Disabilities Act, the Exceptional Children's Educational Act, and Individuals with Disabilities Education Act.

4.4 Building performance standards and guidelines for green building and energy efficiency.

Section 24-30-1305.5 C.R.S., requires all new facilities, additions, and renovation projects funded with 25% or more of state funds to conform with the High Performance Certification Program (HPCP) policy adopted by the Office of the State Architect (OSA) if:

- The new facility, addition, or renovation project contains 5,000 or more building square feet; and
- The project includes an HVAC system; and
- If increased initial cost resulting from HPCP can be recouped by decreased operational costs within 15 years, and
- In the case of a renovation project, the cost of the renovation exceeds 25% of the current value of the property.

4.4.1 **High Performance Certification Programs.**

4.4.1.1 The Department of Personnel and Administration, Office of the State Architect has determined the following three guidelines as meeting the High Performance Certification Program (HPCP) requirements per C.R.S.24-30-1305.5; the U.S. Green Building Council, Leadership in Energy and Environmental Design – New Construction (USGBC LEED™-NC) guideline with Gold as the targeted certification level; and the Green Building Initiative (GBI), Green Globes guideline with Three Globes the targeted certification level; and for the Colorado Department of Education, K-12 construction, the Collaborative for High Performance Schools (US-CHPS) is an optional guideline with Verified Leader as the targeted certification level.

4.4.1.2 – LEED, or Leadership in Energy and Environmental Design (for schools) is a globally recognized symbol of excellence in green building.

4.4.1.2.1 LEED is an internationally recognized certification system that measures a building using several metrics, including: energy savings, water efficiency, sustainable land use, improved air quality, and stewardship of natural resources.

4.4.1.2.2 Points are awarded on a 100-point scale, and credits are weighted to reflect their potential environmental impacts. Different levels of certification are granted based on the total number of earned points. The four progressive levels of certification from lowest to highest are: certified, silver, gold and platinum.

4.4.1.3 United States Collaborative for High Performance Schools (US-CHPS). US-CHPS reflects the three priority outcomes of the Core Criteria. These are, in order of importance.

4.4.1.3.1 Maximize the health and performance of students and staff.

4.4.1.3.2 Conserve energy, water and other resources in order to save precious operating dollars.

4.4.1.3.3 Minimize material waste, pollution and environmental degradation created by a school.

4.4.1.3.4 The CHPS National Technical Committee has weighted the available point totals for prerequisites and credits in seven categories to reflect these three priorities.

Renewable energy strategies.

4.4.2.1 - Solar Photovoltaic / Solar Thermal.

4.4.2.2 - Geothermal / Geo exchange.

4.4.2.3 - Wind.

4.4.2.4 - Passive Solar Design.

4.4.3 **Energy management plan.**

- Energy programs assist with creating a culture of energy efficiency within a school. Reference Energy Star Guidelines for Energy Management to help develop a plan.

Other energy efficient options.

- ENERGY STAR Labeled HVAC / mechanical systems.

- Windows, doors, and skylights (collectively known as fenestration).

4.4.1.4 - Building Envelope.

4.4.1.4.1 - The interface between the interior of the building and the outdoor environment, including the walls, roof, and foundation – serves as a thermal barrier and plays an important role in determining the amount of energy necessary to maintain a comfortable indoor environment relative to the outside environment.

4.4.1.4.2 - Roof. Roof design and materials can reduce the amount of air conditioning required in hot climates by increasing the amount of solar heat that is reflected, rather than absorbed, by the roof. For example, roofs that qualify for ENERGY STAR® are estimated to reduce the demand for peak cooling by 10 to 15 percent.

4.4.1.4.3 - Insulation is important throughout the building envelope.

4.4.1.5 - Lighting.

4.4.1.5.1 - Light emitting diodes (LEDs), compact fluorescents (CFLs) and fluorescent lighting should be considered over traditional incandescent lighting.

4.4.1.6 - Commissioning, retro commissioning and re-commissioning.

4.4.1.6.1 - Commissioning ensures that a new building operates initially as the owner intended and that building staff are prepared to operate and maintain its systems and equipment.

4.4.1.6.2 - Retro commissioning is the application of the commissioning process to existing buildings.

4.4.1.6.3 - Re-commissioning is another type of commissioning that occurs when a building that has already been commissioned, undergoes another commissioning process.

4.4.1.7 - Measurement and verification. Measurement and verification (M&V) is the term given to the process for quantifying savings delivered by an Energy Conservation Measure (ECM), as well as the sub-sector of the energy industry involved with this practice. M & V demonstrates how much energy the ECM has avoided using, rather than the total cost saved.

4.4.2 - **Landscaping**

4.4.2.1.1 Irrigation: Consider water management which could include reducing storm-water run-off, preventing erosion and decreasing the effects of soil expansion.

4.4.2.1.2 Plant Materials: Consider Native materials, Xeriscaping.

4.4.2.1.3 Grass/ Sod Areas: Consider use of grass/ sod areas, consider water use, alternate options if planting sports fields.

4.4.3 – **Permitting**

4.4.3.1 Application for public school construction projects permits can be made at the DFPC website, www.colorado.gov/dfpc > Sections > Fire & Life Safety > Permits and Construction > School Construction.

4.4.3.2 If a local building department has entered into a memorandum of understanding (MOU) with DFPC, that local building department is considered a Prequalified Building Department (PBD). A School District may, at its discretion, choose to apply for permit through DFPC or the PBD that has jurisdiction of construction projects for the location of the school construction project. The list of PBD' is available on the DFPC website, School Construction.

4.5 The historic significance of existing public school facilities and their potential to meet current programming needs by rehabilitating such facilities.

4.5.1 Buildings that are 50 years or older at the time of application may be subject to the State Register Act 24-80.1-101 to 108 in determining if the affected properties have historical significance.

4.5.1.1 - Historical significance means having importance in the history, architecture, archaeology, or culture of this state or any political subdivision thereof or of the United States, as determined by the state historical society.

When determining if a facility should be replaced, the cost to rehabilitate versus the cost to replace should be evaluated.

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Tracking number: 2016-00362

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Public School Capital Construction Assistance

on 09/28/2016

1 CCR 303-1

RULES PERTAINING TO THE ADMINISTRATION OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD

The above-referenced rules were submitted to this office on 10/12/2016 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 17, 2016 14:46:27

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Division of Public School Capital Construction Assistance

CCR number

1 CCR 303-3

Rule title

1 CCR 303-3 BUILDING EXCELLENT SCHOOLS TODAY GRANT PROGRAM 1 - eff 11/30/2016

Effective date

11/30/2016

COLORADO DEPARTMENT OF EDUCATION

DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE

1 CCR 303-3

BUILDING EXCELLENT SCHOOLS TODAY GRANT PROGRAM

Authority

§ 22-43.7-106(2)(i)(I) C.R.S., the Public School Capital Construction Assistance Board may promulgate rules, in accordance with Article 4 of Title 24, C.R.S., as are necessary and proper for the administration of the BEST Act.

Scope and Purpose

This regulation shall govern the Building Excellent Schools Today (BEST) Public School Capital Construction Assistance Program pursuant to the BEST Act.

1. Definitions

1.1. "Applicant" means an entity that submits an Application for Financial Assistance to the Board, including:

1.1.1. A School District;

1.1.2. A District Charter School;

1.1.3. An Institute Charter School;

1.1.4. A Board of Cooperative Educational Services (BOCES);

1.1.5. The Colorado School for the Deaf and Blind.

1.2. "Application" means the Application for Financial Assistance submitted by an Applicant.

1.3. "Assistance Fund" means the public school capital construction assistance fund created in § 22-43.7-104(1) C.R.S.

1.4. "Authorizer" means the School District that authorized the charter contract of a Charter School or, in the case of an Institute Charter School, as defined in § 22-43.7-106(1) C.R.S., the State Charter School Institute created and existing pursuant to § 22-30.5-502(6) C.R.S.

1.5. "BEST Act" means § 22-43.7-101 C.R.S. et seq.

1.6. "BEST Lease-purchase Funding" means funding from a sublease-purchase agreement entered into between the state and an entity as described in 2.1 pursuant to § 22-43.7-110(2) C.R.S.

1.7. "BEST Cash Grant" means cash funding as a matching grant.

1.8. "BEST Emergency Grant" means a request for Financial Assistance in connection with a Public School Facility Emergency.

1.9. "Board" means the Public School Capital Construction Assistance Board created in § 22-43.7-106 (1) C.R.S.

1.10. "Board of Cooperative Educational Services" or "BOCES" means a Board of Cooperative Services created and existing pursuant to § 22-5-104 C.R.S. that is eligible to receive State moneys pursuant to § 22-5-114 C.R.S.

1.11. "Capital Construction" means, pursuant to § 24-75-301 (1) C.R.S.:

1.11.1. Purchase of land, regardless of the value thereof;

1.11.2. Purchase, construction, or demolition of buildings or other physical facilities, including utilities and state highways or remodeling or renovation of existing buildings or other physical facilities, including utilities and state highways to make physical changes necessitated by changes in the program, to meet standards required by applicable codes, to correct other conditions hazardous to the health and safety of persons which are not covered by codes, to effect conservation of energy resources, to effect cost savings for staffing, operations, or maintenance of the facility, or to improve appearance;

1.11.3. Site improvement or development;

1.11.4. Purchase and installation of the fixed and movable equipment necessary for the operation of new, remodeled, or renovated buildings and other physical facilities and for the conduct of programs initially housed therein upon completion of the new construction, remodeling, or renovation;

1.11.5. Purchase of the services of architects, engineers, and other consultants to prepare plans, program documents, life-cycle cost studies, energy analyses, and other studies associated with any Capital Construction project and to supervise construction or execution of such Capital Construction projects;

1.11.6. Any item of instructional or scientific equipment if the cost will exceed fifty thousand dollars.

1.12. "Capital Renewal Reserve" means moneys set aside by an Applicant that has received an award for a project for the specific purpose of replacing major Public School Facility systems with projected life cycles such as, but not limited to, roofs, interior finishes, electrical systems and heating, ventilating, and air conditioning systems.

1.13. "Charter School" means a Charter School as described in § 22-54-124 (1)(f.6)(I)(A) or (1)(f.6)(I)(B) C.R.S.

1.14. "Eligible Charter School" means a qualified charter school that is eligible for the Loan Program as defined in section 22-30.5-408(1)(c) C.R.S. and authorized to receive financial assistance pursuant to 22-43.7-103(7) C.R.S.

1.15. "Division" means the Division of Public School Capital Construction Assistance created in § 22-43.7-105 C.R.S.

1.16. "Financial Assistance" means BEST Cash Grants; BEST Lease-purchase Funding; BEST Emergency Grants; funding provided as matching grants by the Board from the Assistance Fund to an Applicant; or any other expenditure made from the Assistance Fund for the purpose of financing Public School Facility Capital Construction as authorized by the BEST Act.

1.17. "Grantee" means a School District, Charter School, Institute Charter School, BOCES or the Colorado School for the Deaf and Blind that has applied for Financial Assistance and received an award.

1.18. "Institute Charter School" means a Charter School chartered by the Colorado State Charter School Institute pursuant to § 22-30.5-507 C.R.S.

1.19. "Loan Program" means the charter school matching moneys loan program pursuant to 22-43.7-110.5 C.R.S.

1.20. "Matching Moneys" means moneys required to be used directly to pay a portion of the costs of a Public School Facility Capital Construction project by an Applicant as a condition of an award of Financial Assistance to the Applicant pursuant to § 22-43.7-109 (9) C.R.S and/or 22-43.7-110(2) C.R.S.

1.21. "Project" means the Capital Construction Project for which Financial Assistance is being requested.

1.22. "Public School Facility" means a building or portion of a building used for educational purposes by a School District, Charter School, Institute Charter School, a Board of Cooperative Education Services, the Colorado School for the Deaf and Blind created and existing pursuant to § 22-80-102(1)(a) C.R.S., including but not limited to school sites, classrooms, data centers, libraries and media centers, cafeterias and kitchens, auditoriums, multipurpose rooms, and other multi-use spaces; except that "Public School Facility" does not include a learning center, as defined in § 22-30.7-102(4) C.R.S., that is not used for any other public school purpose and is not part of a building otherwise owned, or leased in its entirety, by a School District, a Board of Cooperative Education Services, a Charter School, Institute Charter School, or the Colorado School for the Deaf and Blind for educational purposes.

1.23. "Public School Facility Construction Guidelines" means Public School Facility Construction Guidelines as established in § 22-43.7-107 C.R.S.

1.24. "Public School Facility Emergency" means an unanticipated event that makes all or a significant portion of a Public School Facility unusable for educational purposes or poses an imminent threat to the health or safety of persons using the Public School Facility.

1.25. "School District" means a School District, other than a junior or community college district, organized and existing pursuant to law in Colorado pursuant to § 22-43.7-103 (14) C.R.S.

1.26. "State Board" means the State Board of Education created and existing pursuant to section 1 of article IX of the State Constitution.

1.27. "Statewide Assessment" means the Financial Assistance priority assessment conducted pursuant to § 22-43.7-108 C.R.S.

2. Eligibility

2.1. The following entities are eligible to apply for Financial Assistance:

2.1.1. A School District;

2.1.2. A District Charter School or individual school of a School District if the school applies through the School District in which the school is located. The School District shall forward the Application from a Charter School or individual school of a School District to the Division with its comments;

2.1.3. An Institute Charter School;

2.1.4. A Board of Cooperative Educational Services (BOCES);

2.1.5. The Colorado School for the Deaf and Blind.

2.2. The Board may only provide Financial Assistance for a Project for a Public School Facility that the Applicant owns or will have the right to own in the future under the terms of a lease-purchase agreement with the owner of the facility or a sublease-purchase agreement with the state entered into pursuant to § 22-43.7-110(2) C.R.S.

2.3. The Board, with the support of the Division and subject to the approval of the State Board and the lessor of the property, may provide financial assistance as specified in this section to an applicant that is operating or will operate in the next budget year in a leased facility that is:

2.3.1. Listed on the state inventory of real property and improvements and other capital assets maintained by the Office of the State Architect pursuant to section 24-30-1303.5, C.R.S.; or

2.3.2. State-owned property leased by the State Board of Land Commissioners, described in section 36-1-101.5, C.R.S., to the applicant.

2.3.3. An award of financial assistance must be used to preserve or enhance the value of state-owned, leased property.

2.4. The Board may only provide financial assistance for a capital construction project for a public school in existence for at least three years at any time before the Board receives an application for financial assistance.

2.5. For a BEST Emergency Grant, the Applicant shall be operating in the Public School Facility for which Financial Assistance is requested.

3. Assistance Board

3.1. Conflict of Interest

3.1.1. In regard to Board members providing information to potential Applicants:

3.1.1.1. Board members shall exercise caution when responding to requests for information regarding potential Applications, especially in regard to questions that may increase the chances that the Board would give a favorable recommendation on an Application or Project.

3.1.2. If a potential or actual conflict of interest occurs with a Board member, the Board member will complete a Conflict of Interest disclosure form and it will be presented at the following CCAB meeting. The Division shall document the date of the disclosure, the name of the board member and conflict disclosed, and the documented disclosure shall be retained and made available at all board meetings which evaluation of applications or voting occurs.

3.1.3. Board members, and their firms, shall not present their position on the Board to School Districts, Charter Schools, Institute Charter Schools, BOCES, or the Colorado School for the Deaf and Blind as an advantage for using their firm over other firms in a bid to provide services on any capital construction project.

3.1.4. In regard to Board members avoiding potential conflicts of interest in evaluation of and voting on Applications:

3.1.4.1. If a Board member's firm has no prior involvement regarding the Project included in an Application and the Board member does not have a direct or indirect substantial financial interest in an Application, the Board member may appropriately vote on the Application, but may not bid or work on the Project. The Board member's firm may bid or work on the Project, so long as the Board member plays no role in the entire procurement process and the Board member discloses any conflict of interest;

3.1.4.2. No Board member shall participate in the Board's evaluation process, including voting, for any Application when the Board member has a direct or indirect substantial financial interest in the Project or Application or the Board member's firm has had prior involvement with the Applicant directly related to the Project or Application;

3.1.4.3. At all times Board members must exercise judgment and caution to avoid conflicts of interest and/or appearance of impropriety, and should inform the Division staff of any questionable situation that may arise. A Board member may recuse himself or herself from any vote.

3.1.4.4. Board members shall be aware of and comply with the Colorado Code of Ethics, section 24-18-108.5(2), C.R.S., and shall not perform any official act which may have a direct economic benefit on a business or other undertaking in which the member has a direct or substantial financial interest.

3.1.4.4.1. A financial interest means a substantial interest held by an individual which is (i) an ownership interest in a business, (ii) a creditor interest in an insolvent business, (iii) an employment or prospective employment for which negotiations have begun, (iv) an ownership interest in real or personal property, (v) a loan or any other, or (vi) a directorship or officer ship in a business.

3.1.4.4.2. An official action means any vote decision, recommendation, approval, disapproval or other action, including inaction, which involves the use of discretionary authority.

3.1.5. In cases where a Board member has violated the conflict of interest policy as determined by the board chair, the Division Director will notify the Board member's appointing authority of the violation in writing. In the event of a conflict involving the board chair, the vice-chair will make the determination.

4. Matching Requirement

4.1. Except as provided below in section 4.2, Financial Assistance may be provided only if the Applicant provides Matching Moneys in an amount equal to a percentage of the total cost of the Project determined by the Board after consideration of the Applicant's financial capacity, based on the following factors:

4.1.1. With respect to a School District's Application for Financial Assistance:

4.1.1.1. The School District's assessed value per pupil relative to the state average;

4.1.1.2. The School District's median household income relative to the state average;

4.1.1.3. The School District's bond redemption fund mill levy relative to the statewide average;

4.1.1.4. The percentage of pupils enrolled in the School District who are eligible for free or reduced-cost lunch;

4.1.1.5. The school district's current available bond capacity remaining;

4.1.1.6. The school district's unreserved fund balance as a percentage of its annual budget; and

4.1.1.7. The amount of effort put forth by the School District to obtain voter approval for a ballot question for bonded indebtedness, including but not limited to, a ballot question for entry by the district into a sublease-purchase agreement of the type that constitutes an indebtedness of the district pursuant to § 22-32-127 C.R.S., during the ten years preceding the year in which the district submitted the Application, which factor may be used only to reduce the percentage of Matching Moneys required from a district that has put forth such effort and not to increase the amount of Matching Moneys required from any district;

4.1.1.8. A School District shall not be required to provide any amount of Matching Moneys in excess of the difference between the School District's limit of bonded indebtedness, as calculated pursuant to § 22-42-104 C.R.S., and the total amount of outstanding bonded indebtedness already incurred by the School District.

4.1.2. With respect to a Board of Cooperative Education Services' Application for Financial Assistance:

4.1.2.1. The average assessed value per pupil of all members of the Board of Cooperative Education Services participating in the Project relative to the state average;

4.1.2.2. The average median household income of all members of the Board of Cooperative Education Services participating in the Project relative to the state average;

4.1.2.3. The average bond redemption fund mill levy of all members of the Board of Cooperative Education Services participating in the Project relative to the statewide average;

4.1.2.4. The percentage of pupils enrolled in the member schools within the Board of Cooperative Education Services that are participating in the Project who are eligible for free or reduced-cost lunch;

4.1.2.5. The average available bond capacity remaining of all members of the board of cooperative services participating in the capital construction project;

4.1.2.6. The average unreserved fund balance as a percentage of the annual budget of all members of the board of cooperative services participating in the capital construction project; and

4.1.2.7. The amount of effort put forth by the members of the Board of Cooperative Education Services to obtain voter approval for a ballot question for bonded indebtedness, including but not limited to a ballot question for entry by any member into a sublease-purchase agreement of the type that constitutes an indebtedness of the member pursuant to § 22-32-127 C.R.S., during the ten years preceding the year in which the Board of Cooperative Education Services submitted the Application, which factor may be used only to reduce the percentage of Matching Moneys required from a Board of Cooperative Education Services whose members, or any of them, have put forth such effort and not to increase the amount of Matching Moneys required from any Board of Cooperative Education Services.

4.1.3. With respect to a Charter School's Application for Financial Assistance:

4.1.3.1. The weighted average of the match percentages for the school districts of residence for the students enrolled in a district charter school or fifty percent of the average of the match percentages for all school districts in the state for an institute charter school;

4.1.3.2. Whether the charter school's authorizer retains no more than ten percent of its capacity to issue bonds;

4.1.3.3. Whether the charter school is operating in a district-owned facility at the time it submits its application;

4.1.3.4. In the ten years preceding the year in which the charter school submits the application, the number of times the charter school has attempted to obtain or has obtained:

4.1.3.4.1. Bond proceeds pursuant to 22-30.5-404 C.R.S through inclusion in a ballot measure submitted by the charter school's authorizer to the registered electors of the school district:

4.1.3.4.2. Proceeds from a special mill levy for capital needs pursuant to 22-30.5-405 C.R.S.;

4.1.3.4.3. Grant funding for capital needs from a source other than the assistance fund; and

4.1.3.4.4. Funding for capital construction from bonds issued on its behalf by the Colorado Educational and Cultural Facilities authority created and existing pursuant to 23-15-104(1)(a), C.R.S., or from some other source of financing.

4.1.3.5. If the charter school is a district charter school, the student enrollment of the charter school as a percentage of the student enrollment of the charter school's authorizing school district.

4.1.3.6. The percentage of students enrolled in the charter school who are eligible for the federal free and reduced-cost lunch program in relation to the overall percentage of students enrolled in the public schools in the State who are eligible for the federal free and reduced-cost lunch program.

4.1.3.7. The percentage of the per pupil revenue received by the charter school that the charter school spends on facility costs other than facilities operations and maintenance.

4.1.3.8. The charter school's unreserved fund balance as a percentage of its annual budget.

4.1.3.9. The match percentage for a charter school calculated based on the above criteria shall not be higher than the highest match percentage for a school district, or lower than the lowest match percentage for a school district, in the same grant cycle.

4.2. Waiver or reduction of Matching Moneys

4.2.1. An Applicant may apply to the Board for a waiver or reduction of the Matching Moneys requirement. Such application shall discuss unique issues demonstrating why the percentage is not representative of the Applicant's current financial state. The Board may grant a waiver or reduction if it determines:

4.2.1.1. That the waiver or reduction would significantly enhance educational opportunity and quality within a School District, Board of Cooperative Education Services, or Applicant school,

4.2.1.2. That the cost of complying with the Matching Moneys requirement would significantly limit educational opportunities within a School District, Board of Cooperative Education Services, or Applicant school, or

4.2.1.3. That extenuating circumstances deemed significant by the Board make a waiver appropriate.

4.2.2. An applicant must complete a waiver application and submit it to the Board in conjunction with their grant application. The waiver application shall explain issues and impacts in detail, including dollar amounts of the issues and impacts, and demonstrate why each of the factors used to calculate their Matching Moneys percentage are not representative of their actual financial capacity. The Board will determine the merit of the waiver by evaluating each wavier application using the prescribed wavier application evaluation tool.

4.3. Charter School matching moneys Loan Program.

4.3.1. The Charter School matching moneys Loan Program will assist Eligible Charter Schools in obtaining the Matching Moneys requirement for an award of Financial Assistance pursuant to 22-43.7-109 C.R.S.

4.3.2. An Eligible Charter School that chooses to seek a loan through the Loan Program shall apply to the Board to receive a loan.

4.3.3. To be an Eligible Charter School for the Loan Program means a Charter School that is described in section 22-30.5-104 or an Institute Charter School as that term is defined in section 22-30.5-502 has a stand-alone credit assessment or rating of at least investment grade by a nationally recognized rating agency at the time of issuance of any qualified Charter School bonds on behalf of the Charter School by the Colorado educational and cultural facilities authority pursuant to the "Colorado Educational and Cultural Facilities Authority Act", article 15 of title 23, C.R.S., and that has been certified as a qualified Charter School by the State Treasurer.

4.3.4. The Board may approve a loan for an Eligible Charter School in an amount that does not exceed fifty percent of the amount of Matching Moneys calculated for the Eligible Charter School pursuant to 22-43.7-109(9)(c) C.R.S.

4.3.5. If a loan is approved by the Board the project will be considered as a BEST Lease-Purchase project pursuant to 22-43.7-110.5(2)(b)C.R.S., and the proposed project must be one that is financeable.

4.3.6. The Board shall direct the State Treasurer to include the amount of a loan approved pursuant to the terms in the Lease-Purchase agreement entered into pursuant to 22-43.7-110 (2) C.R.S. to provide Financial Assistance to the Eligible Charter School for which the loan is approved.

4.3.7. Charter School Loan Program application

4.3.7.1. An application for a loan shall include:

4.3.7.1.1. Basic contact information, justification for seeking a BEST loan and documentation of a stand-alone credit assessment or rating of at least investment grade by a nationally recognized rating agency for the Charter School;

4.3.7.1.2. Identify the Charter Schools current facilities and indicate if those facilities are owned, leased or in a lease-purchase agreement;

4.3.7.1.3. A current credit disclosure statement along, any business notes payable or reviews, notices or warnings from the Charter School's authorizer;

4.3.7.1.4. Financial information to include internal financial statements, CPA Audits and IRS 990's for the previous three years. Detailed operating budget for the current and next year. The Charter School's projected operating budget for the next five years. Enrollment figures for the previous three years, the current year and the following three years;

4.3.7.1.5. CDE listed minimum match requirement for the BEST grant;

4.3.7.1.6. Amount of total match provided by the Charter School for the BEST grant;

4.3.7.1.7. Amount of the loan request for the BEST grant;

4.3.7.1.8. A loan application from a Charter School shall include signatures of the District Superintendent, School Board Officer, and the Charter School Director;

4.3.7.1.9. A loan application from an Institute Charter School shall include signatures of the Charter School Institute Director and the Institute Charter School Director;

4.3.7.1.10. Applications that are incomplete may be rejected without further review.

4.3.8. Charter School Loan Program deadline for submission

4.3.8.1. The loan application, along with any supporting material, shall be submitted with the BEST grant application on or before the BEST grant application due date.

4.3.8.2. An application will not be accepted unless it is received in the Board office by 4:30 p.m. on or before the deadline date determined by the board.

4.3.8.3. The Board may, in its sole discretion and upon a showing of good cause in written request from an Applicant, extend the deadline for filing an Application.

4.3.9. To receive a loan through the Loan Program, an Eligible Charter School shall:

4.3.9.1. Authorize the State Treasurer to withhold moneys payable to the Eligible Charter School in the amount of the loan payments pursuant to 22-30.5-406 C.R.S.;

4.3.9.2. Pay an interest rate on the loan that is equal to the interest rate paid by the State Treasurer on the Lease-Purchase agreement entered into pursuant to 22-43.7-110 C.R.S. to provide Financial Assistance to the Eligible Charter School for which the loan is approved;

4.3.9.3. Amortize the loan payments over the same period in years as the Lease-Purchase agreement entered into pursuant to 22-43.7-110 C.R.S. to provide Financial Assistance to the Eligible Charter School for which the loan is approved; except that the Eligible

Charter School may pay the full amount of the loan early without incurring a prepayment penalty; and

4.3.9.4. Create an escrow account for the benefit of the state with a balance in the amount of six months of loan payments.

5. Applications

5.1. Deadline for submission

5.1.1. Except as provided below, Applications shall be filed with the Board on or before a date determined by the Board.

5.1.2. An Application will not be accepted unless it is received in the Board office by 4:00 p.m. on or before the deadline date determined by the Board. This does not apply to an Application in connection with a Public School Facility Emergency;

5.1.3. The Board may, in its sole discretion and upon a showing of good cause in a written request from an Applicant, extend the deadline for filing an Application.

5.2. The Board prefers Applications to be in electronic form, but one hard copy to the Board office is acceptable. Each Application shall be in a form prescribed by the Board and shall include, but not be limited to, the following (with supporting documentation):

5.2.1. A description of the scope and nature of the Project;

5.2.2. A description of the architectural, functional, and construction standards that are to be applied to the Project that indicates whether the standards are consistent with the Construction Guidelines and provides an explanation for the use of any standard that is not consistent with the Construction Guidelines;

5.2.3. The estimated amount of Financial Assistance needed for the Project and the form and amount of Matching Moneys that the Applicant will provide for the Project;

5.2.4. If the Project involves the construction of a new Public School Facility or a major renovation of an existing Public School Facility, a demonstration of the ability and willingness of the Applicant to renew the Project over time that includes, at a minimum, the establishment of a capital renewal budget and a commitment to make annual contributions to a Capital Renewal Reserve within a School District's capital reserve fund or any functionally similar reserve fund separately maintained by an Applicant that is not a School District;

5.2.5. If the Application is for Financial Assistance for the renovation, reconstruction, expansion, or replacement of an existing Public School Facility, a description of the condition of the Public School Facility at the time the Applicant purchased or completed the construction of the Public School Facility and, if the Public School Facility was not new or was not adequate at that time, the rationale of the Applicant for purchasing the Public School Facility or constructing it in the manner in which it did;

5.2.6. A statement regarding the means by which the Applicant intends to provide Matching Moneys required for the Project, including but not limited to voter-approved multiple-fiscal year debt or other financial obligations, gifts, grants, donations, or any other means of financing permitted by law, or the intent of the Applicant to seek a waiver of the Matching Moneys requirement. If an Applicant that is a School District or a Board of Cooperative Educational Services with a participating School District intends to raise Matching Moneys by obtaining voter approval to enter into a sublease-purchase agreement that constitutes an indebtedness

of the district as pursuant to § 22-32-127 C.R.S., it shall indicate whether it has received the required voter approval or, if the election has not already been held, the anticipated date of the election;

5.2.7. A description of any efforts by the Applicant to coordinate Capital Construction projects with local governmental entities or community-based or other organizations that provide facilities or services that benefit the community in order to more efficiently or effectively provide such facilities or services, including but not limited to a description of any financial commitment received from any such entity or organization that will allow better leveraging of any Financial Assistance awarded;

5.2.8. A copy of any existing Master Plan or facility assessment relating to the facility(ies) for which Financial Assistance is sought;

5.2.9. Any other information that the Board may require for the evaluation of the project;

5.2.10. An Application from a School District shall include signatures of the Superintendent and a District Board Officer;

5.2.11. An Application from a Charter School shall include signatures of the District Superintendent, School Board Officer, and the Charter School Director;

5.2.12. An Application from an Institute Charter School shall include signatures of the Charter School Institute Director and the Institute Charter School Director;

5.2.13. An Application from a Board of Cooperative Educational Services shall include signatures of the BOCES Director and a BOCES Board Officer;

5.2.14. An Application from the Colorado School for the Deaf and Blind shall include signatures of the Colorado School for the Deaf and Blind Director and a Colorado School for the Deaf and Blind Board Officer.

5.3. BEST Lease-Purchase Funding

5.3.1. In addition to the information required in section 5.2 above, the Applicant shall agree to provide any necessary documentation related to securing the lease-purchase agreement.

5.4. BEST Emergency Grants

5.4.1. Applicant shall contact the Division by phone, fax, or email. Appropriate follow up documentation will be determined based on type and severity of emergency, including financial need.

5.4.2. In the event the Governor declares a disaster emergency, pursuant to section 24-33.5-704(4) C.R.S., the Division shall, as soon as possible following the declaration of the disaster emergency, contact each affected school facility in any area of the State in which the Governor declared the disaster emergency to assess any facility needs resulting from the declared disaster emergency.

5.4.2.1. The Division must report its findings to the Board as soon as possible following its outreach.

5.4.2.2. In determining whether to recommend to the State Board that Emergency Financial Assistance be provided, the Board shall consider the findings that the Division provided to the Board.

5.4.3. The Board shall meet within fifteen days of receiving the Application for a BEST Emergency Grant to determine whether to recommend to the State Board that emergency Financial Assistance be provided, the amount of any assistance recommended to be provided, and any conditions that the Applicant shall meet to receive the assistance.

5.5. Applications that are incomplete may be rejected without further review.

5.6. The Board may request supplementation of an Application with additional information or supporting documentation.

6. Application Review

6.1. Time for Review

6.1.1. The Board, with the support of the Division, will review the Applications;

6.1.2. The Board will submit the prioritized list of Projects to the State Board for which the Board is recommending Financial Assistance according to the timeline established by the Board;

6.1.3. In the case of Financial Assistance that involves lease-purchase agreements, the prioritized list is subject to both the preliminary approval of the state board and the final approval of the capital development committee.

6.1.4. The Board may, in its discretion, extend these deadlines.

6.2. The Board, taking into consideration the Statewide Assessment, shall prioritize and determine the type and amount of the grant or matching grant for Applications for Projects deemed eligible for Financial Assistance based on the following criteria, in descending order of importance:

6.2.1. Projects that will address safety hazards or health concerns at existing Public School Facilities, including concerns relating to Public School Facility security, and projects that are designed to incorporate technology into the educational environment

6.2.1.1. In prioritizing an Application for a Public School Facility renovation project that will address safety hazards or health concerns, the Board shall consider the condition of the entire Public School Facility for which the project is proposed and determine whether it would be more fiscally prudent to replace the entire facility than to provide Financial Assistance for the renovation project.

6.2.2. Projects that will relieve overcrowding in Public School Facilities, including but not limited to projects that will allow students to move from temporary instructional facilities into permanent facilities, and.

6.2.3. All other projects.

6.2.4. Among other considerations, the Board may take into account the following in reviewing Applications:

6.2.4.1. The amount of the matching contribution being provided in excess of or less than the minimum;

6.2.4.2. Whether the Applicant has been placed on financial watch by the Colorado Department of Education;

6.2.4.3. Overall condition of the Applicant's existing facilities;

6.2.4.4. The project cost per pupil based on number of pupils affected by the proposed Project;

6.2.4.5. The project life cycle.

6.2.4.6. The Public School Facility's Facility Condition Index (FCI), Colorado Facility Index (CFI), school priority score and construction guidelines score.

6.2.4.7. The Applicants ability to help itself, including available bonding capacity, planning and criteria in sections 4.1.1 or 4.1.2 or 4.1.3.

6.3. Additional actions the Board may take when reviewing an Application:

6.3.1. The Board may modify the amount of Financial Assistance requested or modify the amount of Matching Moneys required;

6.3.2. The Board may recommend funding a project in its entirety or recommend a partial award to the project;

6.3.2.1. If a project is partially funded a written explanation will be provided.

6.4. The Board shall submit to the State Board the prioritized list of Projects. The prioritized list shall include:

6.4.1. The Board's recommendation to the State Board as to the amount of Financial Assistance to be provided to each Applicant approved by the Board to receive funding and whether the assistance should be in the form of a BEST Cash Grant, BEST Lease-purchase Funding or a BEST Emergency Grant.

6.5. In considering the amount of each recommended award of Financial Assistance, the Board shall seek to be as equitable as practical in considering the total financial capacity of each Applicant.

7. BEST Lease-purchase Funding

7.1. Subject to the following limitations, the Board may instruct the State Treasurer to enter into lease-purchase agreements on behalf of the state to provide Lease-purchase Funding for Projects for which the State Board has authorized provision of Financial Assistance.

7.2. Whenever the State Treasurer enters into a lease-purchase agreement pursuant to § 22-43.7-110 C.R.S., the Applicant that will use the facility funded with the Lease-purchase Funding shall enter into a sublease-purchase agreement with the state that includes, but is not limited to, the following requirements:

7.2.1. The Applicant shall perform all the duties of the state to maintain and operate the Public School Facility that are required by the lease-purchase agreement;

7.2.2. The Applicant shall make periodic rental payments to the state, which payments shall be credited to the Assistance Fund as Matching Moneys of the Applicant;

7.2.3. Ownership of the Public School Facility shall be transferred by the state to the Applicant upon fulfillment of both the state's obligations under the lease-purchase agreement and the Applicant's obligations under the sublease-purchase agreement.

8. Payment and Oversight

8.1. Payment.

8.1.1. All Cash Grant Financial Assistance Grantees must sign a grant contract with CDE outlining the terms and conditions associated with the Financial Assistance.

8.1.2. All Financial Assistance awarded is expressly conditioned on the availability of funds.

8.1.3. Payment of Financial Assistance will be on a draw basis. As a Grantee expends funds on a Project, the Grantee may submit a request for funds to the Division on a fund request form provided by the Division. The fund request shall be accompanied by copies of invoices from the vendors for which reimbursement is being requested and any other documentation requested by the Division.

8.1.3.1. The Division will review the fund request and make payment. Payments will only be made for work that is included in the Project scope of work defined in the Application.

8.1.3.2. If the Grantee is a School District, request for payment shall come from the School District. Requests will not be accepted from individual School District schools.

8.1.3.3. If the Grantee is a District Charter School, request for payment shall come from the School District. Payment shall be made to the School District and the School District shall make payment to the charter school. The School District may not retain any portion of the moneys for any reason.

8.1.3.4. If the Grantee is an Institute Charter School, request for payment shall come from the Charter School Institute and the Charter School Institute shall make payment to the Institute Charter School. Payment shall be made directly to the Charter School Institute.

8.1.3.5. If the Grantee is a Board of Cooperative Educational Services, request for payment shall come from the Board of Cooperative Educational Services. Requests will not be accepted from individual Board of Cooperative Educational Services schools.

8.1.3.6. If the Grantee is the Colorado School for the Deaf and Blind, request for payment shall come from the Colorado School for the Deaf and Blind.

8.1.4. Payment of BEST Lease-purchase Funding will be determined by the terms of the lease-purchase agreement and any subsequent sublease-purchase agreements.

8.1.5. Each grant cycle the Board may make a motion to authorize up to 5% of the assistance fund dollars be used to address grant reserves for projects awarded in that given year.

8.1.5.1. Grant reserve requests shall be submitted on a Division provided application;

8.1.5.2. Grant reserve applications will be submitted to the Board as an action item at the board meeting following the date the grant reserve application was submitted to the Division.

8.1.5.3. Grant reserve draws shall be limited to issues that were unforeseen, unanticipated and could not have been known about or planned for at the time the Application was submitted.

8.2. Oversight

8.2.1. When a Grantee completes Project, it shall submit a final report to the Division on a Division provided form before final payment will be made. Once the final report is submitted and final payment is made, the Project shall be considered closed.

8.2.2. If a Grantee has not used all Financial Assistance on a closed out BEST Cash Grant, the unused balance will be returned to the Assistance Fund.

8.2.3. If a Grantee has not used all Financial Assistance on a closed out Lease-Purchase Grant, the unused balance will be treated in accordance with the Board policy on returning Matching Moneys.

8.2.4. The Division may make site visits to review Project progress or to review a completed Project;

8.2.5. The Division may require a Grantee to hire additional independent professional construction management to represent the Applicant's interests, if the Division deems it necessary due to the size of the Project, the complexity of the Project, or the Grantee's ability to manage the Project with Grantee personnel.

8.2.6. Upon completion of a new school, major renovation or addition Project, the Grantee shall affix a permanent sign that reads: "Funding for this school was provided through the Building Excellent Schools Today Program from School Trust Lands," unless waived in writing by the Division.

9. Technical Consultation

9.1. The Division will provide technical consultation and administrative services to School Districts, Charter Schools, Institute Charter Schools, BOCES and the Colorado School for the Deaf and Blind.

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Office of the Attorney General

Tracking number: 2016-00361

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Public School Capital Construction Assistance

on 09/28/2016

1 CCR 303-3

BUILDING EXCELLENT SCHOOLS TODAY GRANT PROGRAM

The above-referenced rules were submitted to this office on 10/12/2016 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 17, 2016 14:46:56

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Public Utilities Commission

CCR number

4 CCR 723-2

Rule title

4 CCR 723-2 RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES 1 - eff 12/01/2016

Effective date

12/01/2016

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

* * *

[indicates omission of unaffected rules]

PROGRAMS

2800. – 2819. [Reserved].

Telecommunications Relay Services for Telephone Users with Disabilities

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to implement Article 17 of Title 40, C.R.S., Telecommunications Relay Services (TRS) for Telephone Users with Disabilities compliant with the federal Americans with Disabilities Act of 1990 and which are consistent with the Commission's quality of service rules; require relay-communicated messages to be delivered promptly, accurately, privately, and confidentially; specify the types of calls that are included as telecommunications relay services; and implement a cost recovery mechanism.

The statutory authority for the promulgation of these rules is found at §§ 29-11-102.7; 40-3.4-106; 40-15-502(3)(a); 40-17-103(2) and (3); and 40-2-108, C.R.S.

2820. Applicability.

Rules 2820 through 2839 are applicable to all providers of voice services to the general public within the state.

2821. Definitions.

(a) “Telephone access line” means each voice grade channel or its equivalent assigned to a residential or commercial end user customer by a voice service provider, regardless of the technology used to provide the service.

(b) "Telecommunications relay services" (TRS) means any telecommunications transmission services that allow a person who has a hearing or speech disability to communicate by wire or radio in a manner that is functionally equivalent to the ability of a person who does not have a hearing or speed disability. Such terms include any service that enables two-way communication between a person who uses a telecommunications device or other non-voice terminal device and a person who does not use such a device.

(c) "Voice service provider" means a company that provides telephone access lines to members of the general public who are its customers for voice service.

(d) "TRS contractor" means the company that provides telecommunication relay services in accordance with the state's TRS request for proposal and all Colorado Public Utilities Commission and Federal Communication Commission's rules and regulations for TRS.

(e) "TRS custodial receiver" means a designee selected by the Commission that performs certain administrative functions of the TRS program under the direction of the Commission.

2822. Incorporation by Reference.

References in rules 2820 through 2839 to Part 64 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2823. Conformity with the Federal Americans with Disabilities Act of 1990.

(a) Adoption of federal regulations. For the purpose of providing telecommunications relay services in Colorado, the Commission adopts the FCC's rules and regulations establishing mandatory minimum operational and technical standards, found at 47 C.F.R. §§ 64.601 and 64.604 (a) and (b). These rules require that telecommunication relay service providers relay communicated messages promptly and accurately, maintain the privacy of persons who receive telecommunications relay services, and preserve confidentiality of all parties in connection with relayed messages.

(b) Enforcement. The Commission shall resolve any formal complaint alleging a violation of this rule pursuant to its normal complaint process, except that the Commission shall take final action regarding such formal complaint within 180 days after the formal complaint is filed.

(c) Public access to information. All voice service providers shall assure that callers in their service areas are aware of the availability and the use of all telecommunications relay services pursuant to the FCC's rules and regulations found at 47 C.F.R. §§ 64.604(c)(3).

(d) The FCC has assigned the abbreviated dialing code 7-1-1 for access to telecommunications relay services. All voice service providers must allow for call completion using this abbreviated dialing code.

(e) Jurisdictional separation of costs.

(I) Where appropriate, the costs of providing telecommunications relay services shall be separated in accordance with applicable federal separations procedures and agreements (see § 40-15-108(1)).

(II) Costs caused by interstate telecommunication relay services shall be recovered according to applicable federal rule. Costs caused by intrastate telecommunication relay services shall be recovered from the intrastate jurisdiction consistent with this rule.

2824. Conformity with the Commission's Quality of Service Rules.

The provider of TRS in Colorado shall be subject to any applicable Commission quality of service rule(s). In the case of conflict between the Commission's rule and the federal rule incorporated by reference in rule 2822, the more stringent of the two shall apply.

2825. Rates – Calls Included as Telecommunications Relay Calls.

Intrastate local, intraLATA interexchange, and interLATA interexchange calls shall be included as TRS. The costs of any toll service or any other service that is not a basic local exchange service is to be borne by the TRS user; however, the TRS user shall pay rates no greater than the rate paid for functionally equivalent voice communication services with respect to factors such as the duration of the call, the time of day, and the place of origination to the place of termination.

2826. Commission Powers and Duties.

(a) The Commission shall administer and contract for telecommunications relay services with a telecommunications provider (TRS contractor). The Commission, as Administrator, shall direct that the cost of these services shall be paid from the Colorado Telephone Users with Disabilities Fund. The contract shall conform to these rules, and shall make available adequate procedures and remedies for enforcing the requirements.

(b) Each month, the TRS contractor shall request reimbursement of its expenses from the Commission. The Commission shall, upon its approval of the expenses, remit the approved amount to the Contractor and shall debit the approved amount from the Colorado Telephone Users with Disabilities Fund.

(c) Each voice service provider shall maintain a record of the monthly surcharge imposed on each customer and collected by the voice service provider for a period of three years from the date of billing.

(d) The Commission, at its own expense, may require an audit of a voice service provider’s records for the sole purpose of ensuring compliance with §§ 40-17-101 through 105, C.R.S.

(e) The Commission may annually adjust the monthly surcharge when necessary to accurately reflect a change in the costs of providing telecommunications relay services, pursuant to § 40-17-103, C.R.S.

2827. Administration of the Colorado Telephone Users with Disabilities Fund.

(a) Fund administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each commercial and residential access line in a uniform amount. In order to adjust the uniform charge the Commission requires certain information.

(I) In compliance with annual state budget cycle timelines and requirements, the Commission shall estimate its administrative expenses incurred under §§ 40-17-101 through 104, C.R.S.

(II) The monthly uniform charge, per telephone access line, as determined by the Commission, shall not exceed 15 cents.

(III) All voice service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado. A form is available from the Commission or on its website. Voice service providers shall provide an updated form within 15 days of any change in the information previously provided to the Commission including for any discontinuance of service. All TRS registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.

(b) Uniform charge.

(I) All voice service providers shall collect and remit the TRS charge assessed on each telephone access line.

(II) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed monthly to each access line provided by each voice service provider. Each multiline voice communication service that is capable of simultaneous outbound calling shall constitute a separate telephone access line; however, the number of telephone access lines for which a customer may be assessed a monthly charge cannot exceed the number of outbound voice calls that the voice service provider has enabled and activated to be made simultaneously.

(III) A seller of prepaid wireless service shall collect a prepaid wireless TRS charge from a consumer, pursuant to § 29-11-102.7, C.R.S. and remit the charge to the Department of Revenue. The Department of Revenue shall transmit the money collected to the State Treasurer for deposit into the Colorado Telephone Users with Disabilities Fund, created in § 40-17-104(1), C.R.S.

(IV) The TRS charge shall not be assessed or collected on any federally supported Lifeline service or customer. Each provider exempt from collecting the uniform charge on a Lifeline customer shall maintain complete documentation and shall make such documentation available to the Commission upon request.

(V) The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each voice service provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Surcharge."

(VI) Each voice service provider may retain, from the total charges collected, a vendor fee in the amount of three-fourths of one percent of the amount of total monthly uniform charges collected by such local exchange provider. The vendor fee is intended to reimburse voice service providers for administrative costs in imposing and collecting the uniform charge.

(VII) Prior to January 1, 2017, each voice service provider shall remit no later than the last day of the following month and as directed by the Commission, the amount the provider collected for the previous month, less the applicable vendor fee.

(VIII) Beginning January 1, 2017, each voice service provider shall remit no later than 30 days after the end of each quarter and as directed by the Commission, the amount collected for the three months in the prior quarter, less the applicable vendor fee.

(c) Colorado Telecommunications Relay Service Surcharge form.

(I) Each remittance shall be accompanied by a completed Colorado Telecommunications Relay Service Surcharge form that includes information for each month remitted. This form is available from the Commission or its website.

(A) The Colorado Telecommunications Relay Service Surcharge form must be signed and dated by a company representative authorized to do so. The name and telephone number of the most appropriate company representative to whom questions may be directed must also be included on the form.

(B) The Colorado Telecommunications Relay Service Surcharge form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.

(C) Voice service providers shall submit all surcharge remittances along with the Relay Service Surcharge form to the TRS custodial receiver directly. The Colorado Relay Service Surcharge form shall also be filed with the Commission through the E-Filings System.

2828. – 2839. [Reserved].

* * *

[indicates omission of unaffected rules]

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Opinion of the Attorney General rendered in connection with the rules adopted by the

Public Utilities Commission

on 10/19/2016

4 CCR 723-2

RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS

The above-referenced rules were submitted to this office on 10/20/2016 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 28, 2016 14:51:23

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Air Quality Control Commission

CCR number

5 CCR 1001-5

Rule title

5 CCR 1001-5 REGULATION NUMBER 3 STATIONARY SOURCE PERMITTING AND AIR POLLUTANT EMISSION NOTICE REQUIREMENTS 1 - eff 11/30/2016

Effective date

11/30/2016

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 3

Stationary Source Permitting and Air Pollutant Emission Notice Requirements

5 CCR 1001-5

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

>>>>>>

PART D CONCERNING MAJOR STATIONARY SOURCE NEW SOURCE REVIEW AND PREVENTION OF SIGNIFICANT DETERIORATION

>>>>>>

II. Definitions

>>>>>>

II.A.22. Major Emissions Unit

II.A.22.a. Any emissions unit that emits or has the potential to emit one hundred tons per year or more of the PAL pollutant in an attainment area; or

II.A.22.b. Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major stationary source threshold (as defined in Section II.A.25. of this part) for the PAL pollutant for nonattainment areas.

II.A.22.c. For a GHG PAL issued on a CO2e basis, any emissions unit that emits or has the potential to emit equal to or greater than the amount of GHGs on a CO2e basis that would be sufficient for a new source to trigger permitting requirements under paragraph Part A, Section I.B.44. at the time the PAL permit is being issued.

>>>>>>

II.A.25. Major Stationary Source

II.A.25.a. For the purpose of determining whether a source in an attainment or unclassifiable area is subject to the requirements of this Part D, major stationary source means:

II.A.25.a.(i) Any of the following stationary sources of air pollutants that emits, or has the potential to emit, one hundred tons per year or more of any regulated NSR pollutant:

II.A.25.a.(i)(A) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input

II.A.25.a.(i)(B) Coal cleaning plants (with thermal dryers)

II.A.25.a.(i)(C) Kraft pulp mills

II.A.25.a.(i)(D) Portland cement plants

II.A.25.a.(i)(E) Primary zinc smelters

II.A.25.a.(i)(F) Iron and steel mill plants

II.A.25.a.(i)(G) Primary aluminum ore reduction plants

II.A.25.a.(i)(H) Primary copper smelters

II.A.25.a.(i)(I) Municipal incinerators capable of charging more than 250 tons of refuse per day

II.A.25.a.(i)(J) Hydrofluoric, sulfuric, and nitric acid plants

II.A.25.a.(i)(K) Petroleum refineries

II.A.25.a.(i)(L) Lime plants

II.A.25.a.(i)(M) Phosphate rock processing plants

II.A.25.a.(i)(N) Coke oven batteries

II.A.25.a.(i)(O) Sulfur recovery plants

II.A.25.a.(i)(P) Carbon black plants (furnace process)

II.A.25.a.(i)(Q) Primary lead smelters

II.A.25.a.(i)(R) Fuel conversion plants

II.A.25.a.(i)(S) Sintering plants

II.A.25.a.(i)(T) Secondary metal production plants

II.A.25.a.(i)(U) Chemical process plants

II.A.25.a.(i)(V) Fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input

II.A.25.a.(i)(W) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels

II.A.25.a.(i)(X) Taconite ore processing plants

II.A.25.a.(i)(Y) Glass fiber processing plants

II.A.25.a.(i)(Z) Charcoal production plants

II.A.25.a.(ii) Notwithstanding the stationary source size specified in Section II.A.25.a.(i), any stationary source that emits, or has the potential to emit,

two hundred and fifty tons per year or more of any regulated NSR pollutant.

II.A.25.b.For the purpose of determining whether a source in a nonattainment area is subject to the requirements of Section V. of this part, and whether a source in an attainment area affecting a nonattainment area is subject to the requirements of Section VI.D. of this part, major stationary source means any stationary source of air pollutants that emits, or has the potential to emit 100 tons per year or more of any regulated NSR pollutant for which the area is nonattainment, except where the lower emissions thresholds in Sections II.A.25.b.(i)-(vi) apply. Additionally, a source causing or contributing to a violation of a national ambient air quality standard for any pollutant regulated under Section 110 of the Federal Act shall be considered a major stationary source when it has the potential to emit one hundred tons per year or more of that pollutant. The source will be considered to cause or contribute to a violation where the source exceeds the significance levels in the table under Section VI.D.2. of this Part D. Such source is subject to the requirements of Section VI. of this Part D.

II.A.25.b.(i) Fifty tons per year or more of volatile organic compounds or nitrogen oxides in any serious ozone nonattainment area.

II.A.25.b.(ii) Fifty tons per year or more of volatile organic compounds in any ozone transport region, except for any severe or extreme ozone nonattainment area.

II.A.25.b.(iii) Twenty five tons per year or more of volatile organic compounds or nitrogen oxides in any severe ozone nonattainment area.

II.A.25.b.(iv) Ten tons per year or more of volatile organic compounds or nitrogen oxides in any extreme ozone nonattainment area.

II.A.25.b.(v) Fifty tons per year or more of carbon monoxide in any serious carbon monoxide nonattainment area, where stationary sources significantly contribute to carbon monoxide levels.

II.A.25.b.(vi) Seventy tons per year or more of PM10 in any serious PM10 nonattainment area.

II.A.25.c.Major stationary source includes any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source under Sections II.A.25.a and II.A.25.b. of this part, if the change would constitute a major stationary source by itself.

II.A.25.d.A major stationary source that is major for volatile organic compounds or NOx shall be considered major for ozone, except that emissions of negligibly reactive volatile organic compounds, as defined in the Common Provisions, shall not be included in the determination of major stationary source status for ozone.

II.A.25.e.The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the categories of stationary sources listed in Section II.A.25.a.(i) or any other stationary source category which, as of August 7, 1980, is regulated under Section 111 or 112 of the Federal Act.

II.A.25.f. Emissions caused by indirect air pollution sources (as defined in Section I.B.24. of Part A of this regulation), emissions from internal combustion engines on any vehicle, and emissions resulting from temporary activities, such as construction or exploration, shall be excluded in determining whether a source is a major stationary source. Emissions from ongoing construction are not considered to be temporary emissions and are included in determining whether a major modification will occur.

II.A.25.g. A major stationary source in the Denver Metro PM10 attainment/maintenance area that is major for sulfur dioxide or nitrogen oxides shall be considered major for PM10.

>>>>>>

II.A.44. Significant

II.A.44.a. Unless the context otherwise requires, , a significant rate of emissions in tons per year is defined as a value that would equal or exceed any of the following:

Carbon monoxide: 100 tons per year

Nitrogen Oxides: 40 (nitric oxide + nitrogen dioxide) tons per year

Sulfur dioxide: 40 tons per year

Particulate matter: 25 tons per year particulate matter emissions or, 15 tons per year of PM10 emissions

PM10 - Precursors in the Denver Metropolitan PM10 attainment/maintenance area: 40 tons per year for each individual precursor (nitrogen oxides or sulfur oxides)

PM2.5: 10 tons per year of direct PM2.5 emissions; 40 tons per year of sulfur dioxide emissions; or 40 tons per year of nitrogen dioxide emissions

Ozone: 40 tons per year of volatile organic compounds or nitrogen oxides

Lead: 0.6 tons per year

Fluorides: 3 tons per year

Sulfuric acid mist: 7 tons per year

Hydrogen sulfide: 10 tons per year

Total reduced sulfur (including hydrogen sulfide): 10 tons per year

Reduced sulfur compounds (including hydrogen sulfide): 10 tons per year

Municipal Waste Combustor Organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2 x 10-6 megagrams per year (3.5 x 10-6 tons per year)

Municipal Waste Combustor Metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal Waste Combustor Acid Gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal Solid Waste Landfill Gases (measured as non-methane organic compounds): 45 megagrams per year (50 tons per year)

In a serious or severe ozone nonattainment area: 25 tons per year of volatile organic compounds or nitrogen oxides

In an extreme ozone nonattainment area: any increase of volatile organic compounds or nitrogen oxides

II.A.44.b. Significant means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that this definition does not list, any emissions rate, except that this definition shall not apply to hazardous air pollutants listed in or pursuant to Section 112 of the Federal Act.

II.A.44.c. Notwithstanding the significant emission rates above, significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification, that would construct within ten kilometers of a Class I area, and have an impact on such area equal to or greater than one microgram/cubic meter ((g/m3) (twenty-four hour average).

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PART G STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

>>>>>>

I.AAA. Adopted October 12, 2016

Regulation Number 3, Part D, Sections II.A.22.b., II.A.25.b., and II.A.44.a.

This Statement of Basis, Specific Statutory Authority and Purpose complies with the requirements of the Colorado Administrative Procedure Act Sections 24-4-103, C.R.S. and the Colorado Air Pollution Prevention and Control Act Sections 25-7-110 and 25-7-110.5, C.R.S. (“the Act”).

Basis

The Commission revised the definition of “major stationary source” contained in Regulation Number 3, Part D, Section II. to include the ozone nonattainment area major source thresholds, consistent with federal requirements. The Commission also revised the definitions of “major emission unit” and “significant” in Regulation Number 3, Part D, Section II.

Statutory Authority

The Colorado Air Pollution Prevention and Control Act, Sections 25-7-105(1)(a), 25-7-301, and 25-7-302, C.R.S. authorize the Commission to promulgate a comprehensive State Implementation Plan (“SIP”) which will assure attainment and maintenance of national ambient air quality standards (“NAAQS”) in conformance with the Federal and Colorado Acts. Section 25-7-105(12) authorizes the Commission to promulgate regulations necessary to implement the provisions of the emission notice, construction permit, and Title V programs. Pursuant to Section 25-7-106, C.R.S., the Commission has the maximum flexibility in establishing an air quality control program and may promulgate regulations as necessary or desirable to carry out that program.

Purpose

Major Stationary Source Definition

Regulation Number 3, Part D, concerning Major Stationary Source New Source Review ("NSR") and Prevention of Significant Deterioration ("PSD"), applies statewide to any new or existing major stationary source (Section I.) and it has been fully incorporated into Colorado's SIP. If a source is a "major stationary source" as defined in Section II.A.25.b., then it will need to comply with Sections V. (Requirements Applicable to Nonattainment Areas) and VI. (Requirements applicable to attainment and unclassifiable areas and pollutants implemented under Section 110 of the Federal Act (PSD Program)) of Part D, as applicable.

A major stationary source is defined as, "Any stationary source of air pollutants that emits, or has the potential to emit 100 tons per year or more of any regulated NSR pollutant for which the area is nonattainment." Unlike the federal definition, Colorado's definition of "major stationary source" does not step-down the thresholds for determining what is a major source based on ozone nonattainment area classification. *See* 40 C.F.R. § 51.165(a)(1)(iv)(A)(1) and 40 C.F.R. Part 51, Appendix S. Thus, if an ozone nonattainment area were ever classified or reclassified as serious or severe, in order to maintain permitting authority, Colorado would need to adopt the same lower major stationary source thresholds that would apply on a federal basis before permitting new or modified sources. Therefore, in order to ensure consistency with federal definitions and to provide regulatory certainty by avoiding any disruption to the permitting process should Colorado's ozone nonattainment area ever be reclassified to a more stringent classification beyond a moderate nonattainment area, the Commission has revised the definition of "major stationary source" contained in Part D, Section II.A.25.b. to include the ozone nonattainment area major source thresholds.

Major Emissions Unit Definition

Currently, Section II.A.22.b. defines a major emissions unit as, "Any emissions unit that emits or has the potential to emit an amount that is equal to or greater than the major stationary source threshold (as defined in Section II.A.25. of this part) for the [plant-wide applicability limitation (PAL)] pollutant for nonattainment areas." The definition of major emissions unit in Section II.A.22.b. then goes on to provide an example of when an emissions unit would be a major emissions unit for volatile organic compounds. This example is not required to maintain consistency with federal definitions and it does not provide additional clarity to the regulation. Therefore, the Commission is removing this example.

Significant Definition

Currently, the definition of significant contained in Section II.A.44.a. (in reference to a net emissions increase or the potential of a source to emit air pollutants) contains emission rates in tons per year, but it does not contain emission rates pertaining to serious, severe or extreme ozone nonattainment areas. In order to ensure consistency with federal definitions and provide certainty by avoiding any disruption in the permitting process, the Commission is adding emission rates for serious, severe and extreme ozone nonattainment areas.

Further, the Commission corrected any typographical, grammatical and formatting errors found within the regulation.

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Tracking number: 2016-00364

Opinion of the Attorney General rendered in connection with the rules adopted by the

Air Quality Control Commission

on 10/12/2016

5 CCR 1001-5

REGULATION NUMBER 3 STATIONARY SOURCE PERMITTING AND AIR POLLUTANT EMISSION NOTICE REQUIREMENTS

The above-referenced rules were submitted to this office on 10/20/2016 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 31, 2016 10:32:53

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

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-61

Rule title

5 CCR 1002-61 REGULATION NO. 61 - COLORADO DISCHARGE PERMIT SYSTEM 1 - eff 12/31/2016

Effective date

12/31/2016

DEPARTMENT OF HEALTH AND ENVIRONMENT

Water Quality Control Commission

5 CCR 1002-61

COLORADO DISCHARGE PERMIT SYSTEM

. . . .

61.15 PERMIT FEES - GENERAL PROVISIONS

(a) Permit fees shall be paid in accordance with the schedule set forth in section 25-8-502(1)(b), C.R.S.

(b) As provided in 25-8-502(1)(b)(ll), the Division may establish an interim fee in any case where the facility to be permitted does not fit into the existing categories and subcategories. The interim fee shall be consistent and equitable with the fee schedule contained in the law and regulations. The interim fee shall apply until the date of adjournment sine die of the next regular session of the General Assembly following the imposition of the interim fee.

(c) The annual permit fee or interim fee must be paid within the thirty (30) days of receipt of the Division's billing statement. All fees assessed shall be made payable to the Department of Public Health and Environment - Water Quality Control Division. (All fees collected by the Division shall be credited to the appropriate sector funds:

(i) Water Quality Certification Sector Fund as provided in 25-8-502(1.2)(a)

(ii) Commerce and Industry Sector Fund as provided in 25-8-502(1.5)(a)(I)

(iii) Construction Sector Fund as provided in 25-8-502(1.5)(a)(II)

(iv) Pesticides Sector Fund as provided in 25-8-502(1.5)(a)(III)

(v) Municipal Separate Storm Sewer System Sector Fund as provided in 25-8-502(1.5)(a)(IV)

(vi) Public and Private Utilities Sector Fund as provided in 25-8-502(1.5)(a)(V)

The annual fee is to be used to support the expenses of the clean water program activities of the Division.

It is the intent of the General Assembly as stated in section 25-8-502(1)(c) C.R.S. as amended that a portion of the expenses of the discharge permit system be funded from the general fund, reflecting the benefit derived by the general public.

(d) Failure of the applicant or permittee to pay the annual or interim fee as required by section 25-8-502(1)(b) C.R.S. is a violation of the permit and shall result in the suspension of said permit and initiation of enforcement action by the Division, which could include revocation of the permit. Reinstatement of such revoked permit will require payment of the delinquent fee and any penalties levied but will not require a permit application or review pursuant to 5 CCR 1002-61, 61.4 or 1002-61, 61.5 et seq. Enforcement action pertaining to delinquent permit fees shall be taken in accordance with 25-8-601 C.R.S. et seq. and section 61.8 of the discharge permit regulations.

(e) The annual permit fee shall be applicable to all permittees of record as of July 1, 1983 and new permittees thereafter. Fees assessed under the Water Quality Control Act prior to the 1983 amendments are applicable to prior fiscal years up to June 3, 1983, regardless of the date upon which a permit action was taken by the Division.

. . . .

61.69 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE – OCTOBER 11, 2016 RULEMAKING HEARING; EFFECTIVE DATE DECEMBER 31, 2016

The provisions of 25-8-202(1)(d) and (2), 25-8-401, 25-8-501, 25-8-501.1, and 25-8-502, C.R.S., provide the specific statutory authority for the amendments to this regulation adopted by the Water Quality Control Commission (Commission). The Commission has also adopted, in compliance with 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The Commission decided to modify Section 61.15(e) to reflect current changes in the Water Quality Control Act regarding fee sectors and to delete provisions referencing fee proration. The statute does not require fee proration and recent changes to the statute require a permit application fee which in effect prorates a portion of the fee to allow the Division to begin work on a permit action. The Commission decided to remove the proration portion of the regulation with the understanding the Division has the discretion to waive fees where appropriate.

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Tracking number: 2016-00302

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 10/11/2016

5 CCR 1002-61

REGULATION NO. 61 - COLORADO DISCHARGE PERMIT SYSTEM

The above-referenced rules were submitted to this office on 10/12/2016 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 20, 2016 15:59:06

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

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-93

Rule title

5 CCR 1002-93 REGULATION NO. 93 - COLORADO'S SECTION 303(D) LIST OF IMPAIRED WATERS AND MONITORING AND EVALUATION LIST 1 - eff 11/30/2016

Effective date

11/30/2016

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL COMMISSION

5 CCR 1002-93

REGULATION #93

COLORADO'S SECTION 303(D) LIST OF IMPAIRED WATERS

. . . .

93.3 Water Bodies Requiring TMDLs or Identified for Monitoring and Evaluation

Only those segments where a Clean Water Section 303(d) Impairment has been determined require TMDLs. For these segments, TMDLs are only required for those parameters that are identified as impairments.

. . . .

WBID	Segment Description	Portion	Colorado's Monitoring & Evaluation Parameter(s)	Clean Water Act Section 303(d) Impairment	303(d) Priority
COUC	**Upper Colorado River Basin**				
COUCNP04a	All tributaries to N. Platte River except segments 4b, 6, 7a and 7b	Sand Creek		Sediment	H

. . . .

93.16 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; AUGUST 2016 RULEMAKING, FINAL ACTION OCTOBER 11, 2016, EFFECTIVE DATE OF NOVEMBER 30, 2016

The provisions of C.R.S. 25-8-202(1)(a), (b) and (i), (2) and (6); 25-8-203; 25-8-204; and 25-8-401; provide the specific statutory authority for adoption of these regulatory amendments. The Commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

BASIS AND PURPOSE

A. Revisions to 303(d) List

1. Introduction

This regulation updates Colorado's List of Water-Quality-Limited Segments Requiring Total Maximum Daily Loads (TMDLs) to reflect additional water quality information available since the Regulation was last updated. This change was prepared to fulfill section 303(d) of the federal Clean Water Act (Act) which requires that states submit to the U.S. Environmental Protection Agency (EPA) a list of those waters for which technology-based effluent limitations and other required controls are not stringent enough to implement water quality standards.

2. List Development

a. Listing Methodology

The Section 303(d) Listing Methodology - 2016 Listing Cycle ("Listing Methodology") provides the listing process, the criteria for listing, and the criteria for determination of TMDL priority. The Listing Methodology was developed through a public process and finalized as a policy at a Water Quality Control Commission (Commission) administrative action hearing in March 2015.

This Listing Methodology sets forth the criteria that generally were used to make decisions regarding which waters to include on the 2016 Section 303(d) List and the 2016 M&E List. However, this methodology was not adopted by the Commission as a rule. The Commission therefore has the flexibility to take into account other appropriate factors in making site-specific listing decisions.

b. Information Considered

To determine whether Sand Creek, a portion of segment COUCNP04a, should be included on the 303(d) List rather than the M&E List, the Commission considered existing and readily available data, which includes the data used to prepare the identification processes, calculations and models referenced in 40 CFR §130.7(a)(5)(i), (ii) and (iv), and data that was presented by Cody Resources LP/State Line Ranch.

3. Sand Creek, a Portion of Segment COUCNP04a

Cody Resources LP/State Line Ranch proposed that Sand Creek be listed as impaired for sediment due to impacts to a beneficial use at the Commission's December 2015 303(d) Rulemaking. The Commission, however, placed Sand Creek on the Monitoring & Evaluation List effective March 1, 2016 based on the State Line Ranch's proposal submitted as part of written public comment. While the Commission found the evidence submitted to be persuasive and compelling evidence of impairment, the Commission was reluctant to list the segment as impaired because the proposal was made late in the process and the Division had not had an opportunity to review and evaluate the proposal. In addition, potentially affected parties were not able to participate in the process. This was the first time a segment has been listed for sediment impairing a beneficial use, and

so the Commission wanted to proceed thoughtfully to establish precedent about the factors considered in such a decision. The Commission, however, stated that a proposal could be made for a special hearing to consider the sediment listing proposal. State Line Ranch subsequently requested and the Commission granted and scheduled this special hearing.

In support of listing Sand Creek as impaired, State Line Ranch submitted engineering reports prepared by Hydros Consulting, work logs from the Ranch's irrigator, and presented testimony of the Ranch President and Ranch Manager. The Commission found that Hydros appropriately analyzed the four factors required to find sediment impairment using Policy 98-1, and that State Line Ranch established with clear and convincing evidence:

1. The represented expected condition in terms of sediment deposition for Sand Creek;

2. The actual observed sediment condition for Sand Creek is significantly different than the expected condition;

3. The sediment is attributable to an anthropogenic source, which is Off-Highway Vehicle use at North Sand Hills;

4. There is a beneficial irrigation use at State Line Ranch to which the excess sediment is a determent.

The Commission has accordingly updated Colorado's List of Water-Quality-Limited Segments to move Sand Creek, a portion of Segment COUCNP04a, onto its 303(d) list from its M&E list.

The Commission considered the Division's recommendation to establish quantitative benchmarks to assess conditions on Sand Creek for future listing/delisting decisions. The Commission adopted the benchmarks proposed by Cody Resources/State Line Ranch:

1. Reduction in Sand Deposition in Blankenship Meadow – State Line Ranch has and is now experiencing the formation of long sediment "fingers" in the meadow. The extent of these "fingers" should be quantified each year on the same date and compared to previous years. Quantification could occur using LandSat imagery (based on sand-related parameters such as emissivity and albedo measurements) and / or on-the-ground field measurements. This benchmark would seek to verify that sand deposition in the meadow is no longer increasing and quantify a return to pre-2011 conditions when sand deposition was not inundating additional meadowlands.

2. Return to Historical Maintenance Activities – Historical irrigation activities at State Line Ranch did not include the use of heavy equipment such as excavators or backhoes. This benchmark would track whether and when the Ranch could consistently return to those practices.

For both of these recommended benchmarks, the period of assessment will need to cover several years (due to movement of existing sediment downstream and past the headgate) and include years with wet hydrologic conditions. The Commission anticipates that the Division will work with Cody Resources/State Line Ranch to implement these benchmarks because this is the first instance in which the Commission has applied Section V of Policy 98-1 since it made revisions in November 2014.

The Commission recommends that the Bureau of Land Management evaluate the impacts of off highway vehicle use in the North Sand Hills Special Recreational Management Area to water quality and sediment impairment during the next update to the Kremmling Resource Management Plan and any related Environmental Impact Statement.

PARTIES TO THE RULEMAKING HEARING

1. Cody Resources, LP/State Line Ranch

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
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Tracking number: 2016-00180

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 10/11/2016

5 CCR 1002-93

REGULATION NO. 93 - COLORADO'S SECTION 303(D) LIST OF IMPAIRED WATERS AND MONITORING AND EVALUATION LIST

The above-referenced rules were submitted to this office on 10/19/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

October 20, 2016 15:59:18

Permanent Rules Adopted

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10

Rule title

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY 1 - eff 11/30/2016

Effective date

11/30/2016

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rates Section Rule Concerning Definitions, Section 8.500.1 Provider Reimbursement, Section 8.500.14
Rule Number: MSB 16-06-21-A
Division / Contact / Phone: Payment Reform / Randie DeHerrera / 6199

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 16-06-21-A, Revision to the Medical Assistance Rates Section Rule Concerning Definitions, Section 8.500.1 Provider Reimbursement, Section 8.500.14
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.500.1, 8.500.14, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text starting at 8.500.1 paragraph 4 through the end of paragraph 4 with the proposed text. Replace the current text starting at 8.500.1 paragraph 40 through the end of paragraph 40 with the proposed text. Replace the current text starting at 8.500.14.F through the end of 8.500.14.F with the proposed text. This rule is effective 11/30/16.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rates Section Rule Concerning Definitions, Section 8.500.1 Provider Reimbursement, Section 8.500.14
Rule Number: MSB 16-06-21-A
Division / Contact / Phone: Payment Reform / Randie DeHerrera / 6199

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The addition to the rule will state reimbursement paid to State or local government providers differs from the amount paid to private providers of the same service. No public provider may receive payments in the aggregate that exceed its actual costs of providing waiver services. The rule change is necessary to ensure compliance with the Department's waiver application with CMS requiring that state and local government providers be reimbursed actual costs and that reimbursement does not exceed costs. This addition was prompted by and the Office of State Auditor's recommendation which identified the non-compliance with our CMS waiver application.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2015);
   25.5-6-404

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rates Section Rule Concerning Definitions, Section 8.500.1 Provider Reimbursement, Section 8.500.14
Rule Number: MSB 16-06-21-A
Division / Contact / Phone: Payment Reform / Randie DeHerrera / 6199

REGULATORY ANALYSIS

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

   The classes of person who will be affected by the proposed rule include state owned Regional Centers providing Home and Community Based Services waiver services for clients with Developmental or Intellectual Disabilities. The Department of Health Care Policy and Financing and Department of Human Services will bear the costs of the proposed rule as DHS is responsible for administration of the Regional Centers and HCPF is responsible for oversight of the Regional Centers.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   There are no probable quantitative or qualitative impacts of the proposed rule upon the affected classes of persons.

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

   The Department of Health Care Policy and Financing will be responsible for costs associated with a third party accounting vendor to ensure actual costs are appropriate, necessary, and waiver client related. The cost to the Department for staffing is minimal. The cost to the Department of Human Services in the form of staffing is also minimal.

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

   The cost of inaction is continued non-compliance with the Departments approved waiver application which may result in disallowance of FFP for services.

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

There are no less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   There are no alternatives that will achieve the purpose of the proposed rule.

8.500.1 DEFINITIONS

ACTIVITIES OF DAILY LIVING (ADL) means basic self care activities including bathing, bowel and bladder control, dressing, eating, independent ambulation, and needing supervision to support behavior, medical needs and memory/cognition.

ADVERSE ACTION means a denial, reduction, termination or suspension from the HCBS-DD Waiver or a HCBS Waiver service.

APPLICANT means an individual who is seeking a long term care eligibility determination and who has not affirmatively declined to apply for Medicaid or participate in an assessment.

AUDITABLE: means the information represented on the wavier cost report can be verified by reference to adequate documentation as required by generally accepted auditing standards.

CLIENT means an individual who has met long term care (LTC) eligibility requirements, is enrolled in and chooses to receive LTC services, and receives LTC services.

CLIENT REPRESENTATIVE means a person who is designated by the client to act on the client's behalf. A client representative may be: (A) a legal representative including, but not limited to a court-appointed guardian, a parent of a minor child, or a spouse; or (B) an individual, family member or friend selected by the client to speak for or act on the client's behalf.

COMMUNITY CENTERED BOARD (CCB) means a private corporation, for profit or not for profit, which when designated pursuant to Section 27-10.5-105, C.R.S., provides case management services to clients with developmental disabilities, is authorized to determine eligibility of such clients within a specified geographical area, serves as the single point of entry for clients to receive services and supports under Section 27-10.5-101, C.R.S. *et seq*, and provides authorized services and supports to such clients either directly or by purchasing such services and supports from service agencies.

COST CONTAINMENT means limiting the cost of providing care in the community to less than or equal to the cost of providing care in an institutional setting based on the average aggregate amount. The cost of providing care in the community shall include the cost of providing home and community based services and Medicaid state plan benefits including long term home health services and targeted case management.

COST EFFECTIVENESS means the most economical and reliable means to meet an identified need of the client.

DEPARTMENT means the Colorado Department of Health Care Policy and Financing, the single State Medicaid agency.

DEVELOPMENTAL DISABILITY means a disability that is manifested before the person reaches twenty-two (22) years of age, which constitutes a substantial disability to the affected individual, and is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation. Unless otherwise specifically stated, the federal definition of "developmental disability" found in 42 U.S.C. § 6000, *et seq.*, shall not apply.

> "Impairment of General Intellectual Functioning" means that the person has been determined to have an intellectual quotient equivalent which is two or more standard deviations below the mean (seventy (70) or less assuming a scale with a mean of 100 and a standard deviation of fifteen (15)), as measured by an instrument which is standardized, appropriate to the nature of the

person's disability, and administered by a qualified professional. The standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent. When an individual's general intellectual functioning cannot be measured by a standardized instrument, then the assessment of a qualified professional shall be used.

"Adaptive Behavior Similar to That of a Person With Mental Retardation" means that the person has overall adaptive behavior which is two or more standard deviations below the mean in two or more skill areas (communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work), as measured by an instrument which is standardized, appropriate to the person's living environment, and administered and clinically determined by a qualified professional. These adaptive behavior limitations are a direct result of, or are significantly influenced by, the person's substantial intellectual deficits and may not be attributable to only a physical or sensory impairment or mental illness.

"Substantial Intellectual Deficits" means an intellectual quotient that is between seventy-one (71) and seventy-five (75) assuming a scale with a mean of one hundred (100) and a standard deviation of fifteen (15), as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. The standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent.

DIVISION FOR DEVELOPMENTAL DISABILITIES (DDD) means the Operating Agency for Home and Community Based Services for persons with Developmental Disabilities (HCBS-DD) within the Colorado Department of Human Services.

EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) means the child health component of Medicaid State Plan for Medicaid eligible children up to the age of twenty-one (21).

FAMILY means a relationship as it pertains to the client and is defined as:

A mother, father, brother, sister or any combination,

Extended blood relatives such as grandparent, aunt, uncle, cousin,

An adoptive parent,

One or more individuals to whom legal custody of a client with a developmental disability has been given by a court

A spouse; or,

The client's children.

FUNCTIONAL ELIGIBLITY means that the applicant meets the criteria for long term care services as determined by the Department's prescribed instrument.

FUNCTIONAL NEEDS ASSESSMENT means a comprehensive face-to-face evaluation using the Uniform Long Term Care instrument and medical verification on the Professional Medical Information Page to determine if the client meets the institutional level of care (LOC).

GROUP RESIDENTIAL SERVICES AND SUPPORTS (GRSS) means residential habilitation provided in group living environments of four (4) to eight (8) clients receiving services who live in a single residential setting, which is licensed by the Colorado Department of Public Health and Environment as a residential

care facility or residential community home for persons with developmental disabilities and certified by the Operating Agency.

GUARDIAN means an individual at least twenty-one years (21) of age, resident or non-resident, who has qualified as a guardian of a minor or incapacitated client pursuant to appointment by a court. Guardianship may include limited, emergency or temporary substitute court appointed guardian but not a guardian ad litem.

Home And Community Based Services (HCBS) Waiver means services and supports authorized through a 1915(c) waiver of the Social Security Act and provided in community settings to a client who requires a level of institutional care that would otherwise be provided in a hospital, nursing facility or intermediate care facility for the mentally retarded (ICF-MR).

INDIVIDUAL RESIDENTIAL SERVICES AND SUPPORTS (IRSS) means residential habilitation services provided to three (3) or fewer clients in a single residential setting or in a host home setting that does not require licensure by the Colorado Department of Public Health and Environment. IRSS settings are certified by the Operating Agency.

LEGALLY RESPONSIBLE PERSON means the parent of a minor child, or the client's spouse.

INSTITUTION means a hospital, nursing facility, or Intermediate Care Facility for the Mentally Retarded (ICF-MR) for which the Department makes Medicaid payment under the Medicaid State Plan.

INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED (ICF-MR) means a publicly or privately operated facility that provides health and habilitation services to a client with mental retardation or related conditions.

LEVEL OF CARE (LOC) means the specified minimum amount of assistance a client must require in order to receive services in an institutional setting under the Medicaid State Plan.

LONG TERM CARE (LTC) SERVICES means services provided in nursing facilities or intermediate care facilities for the mentally retarded (ICF-MR), or home and community based services (HCBS), long term home health services or the program of all-inclusive care for the elderly (PACE), swing bed and hospital back up program (HBU).

MEDICAID ELIGIBILE means an applicant or client meets the criteria for Medicaid benefits based on the applicant's financial determination and disability determination.

MEDICAID STATE PLAN means the federally approved document that specifies the eligibility groups that a state serves through its Medicaid program, the benefits that the state covers, and how the state addresses additional federal Medicaid statutory requirements concerning the operation of its Medicaid program.

MEDICATION ADMINISTRATION means assisting a client in the ingestion, application or inhalation of medication, including prescription and non-prescription drugs, according to the directions of the attending physician or other licensed health practitioner and making a written record thereof.

NATURAL SUPPORTS means informal relationships that provide assistance and occur in the client's everyday life including, but not limited to, community supports and relationships with family members, friends, co-workers, neighbors and acquaintances.

OPERATING AGENCY means the Department of Human Services, Division for Developmental Disabilities, which manages the operations of the Home and Community Based Services-for persons with Developmental Disabilities (HCBS-DD), HCBS-Supported Living Services (HCBS-SLS) and HCBS-

Children's Extensive Supports (HCBS-CES) waivers under the oversight of the Department of Health Care Policy and Financing.

ORGANIZED HEALTH CARE DELIVERY SYSTEM (OHCDS) means a public or privately managed service organization that provides, at minimum, targeted case management and contracts with other qualified providers to furnish services authorized in the Home and Community Based Services-for persons with Developmental Disabilities (HCBS-DD), HCBS-Supported Living Services (HCBS-SLS) and HCBS-Children's Extensive Supports (HCBS-CES) waivers.

POST ELIGIBILITY TREATMENT OF INCOME (PETI) means the determination of the financial liability of an HCBS Waiver client as defined in 42 CFR 435.217.

PRIOR AUTHORIZATION means approval for an item or service that is obtained in advance either from the Department, the Operating Agency, a State Fiscal Agent or the Case Management Agency.

PROFESSIONAL MEDICAL INFORMATION PAGE (PMIP) means the medical information form signed by a licensed medical professional used to verify the client needs institutional level of care.

PROGRAM APPROVED SERVICE AGENCY means a developmental disabilities service agency or typical community service agency as defined in 2 CCR 503-1 16.200 *et seq.*, that has received program approval to provide HCBS-DD Waiver services.

PUBLIC CONVEYANCE means public passenger transportation services that are available for use by the general public as opposed to modes for private use, including vehicles for hire.

RELATIVE means a person related to the client by virtue of blood, marriage, adoption or common law marriage.

RETROSPECTIVE REVIEW means the Department or the Operating Agency's review after services and supports are provided to ensure the client received services according to the service plan and standards of economy, efficiency and quality of service.

SERVICE PLAN means the written document that specifies identified and needed services, to include Medicaid and non-Medicaid services regardless of funding source, to assist a client to remain safely in the community and developed in accordance with the Department and the Operating Agency's rules set forth in 10 CCR 2505-10 Section 8.400.

STATE AND LOCAL GOVERNMENT HCBS WAIVER PROVIDER: means the state owned and operated agency providing home and community based services (HCBS) to clients enrolled in the HCBS waiver for Persons with Developmental Disabilities. SUPPORT is any task performed for the client where learning is secondary or incidental to the task itself or an adaptation is provided.

SUPPORTS INTENSITY SCALE (SIS) means the standardized assessment tool that gathers information from a semi-structured interview of respondents who know the client well. It is designed to identify and measure the practical support requirements of adults with developmental disabilities.

TARGETED CASE MANAGEMENT (TCM) means a Medicaid State Plan benefit for a target population which includes facilitating enrollment, locating, coordinating and monitoring needed HCBS waiver services and coordinating with other non-waiver resources, including, but not limited to medical, social, educational and other resources to ensure nonduplication of waiver services and the monitoring of effective and efficient provision of waiver services across multiple funding sources.

THIRD PARTY RESOURCES means services and supports that a client may receive from a variety of programs and funding sources beyond natural supports or Medicaid. They may include, but are not

limited to, community resources, services provided through private insurance, non-profit services and other government programs.

WAIVER SERVICE means optional services defined in the current federally approved waiver documents and do not include Medicaid State Plan benefits.

8.500.14 PROVIDER REIMBURSEMENT

8.500.14.A Providers shall submit claims directly to the Department's Fiscal Agent through the Medicaid Management Information System (MMIS); or through a qualified billing agent enrolled with the Department's Fiscal Agent.

8.500.14.B Provider claims for reimbursement shall be made only when the following conditions are met:

1. Services are provided by a qualified provider as specified in the federally-approved HCBS-DD Waiver,

2. Services have been prior authorized,

3. Services are delivered in accordance to the frequency, amount, scope and duration of the service as identified in the client's service plan, and

4. Required documentation of the specific service is maintained and sufficient to support that the service is delivered as identified in the service plan and in accordance with the service definition.

8.500.14.C Provider claims for reimbursement shall be subject to review by the Department and the Operating Agency. This review may be completed after payment has been made to the provider.

8.500.14.D When the review identifies areas of noncompliance, the provider shall be required to submit a plan of correction that is monitored for completion by the Department and the Operating Agency.

8.500.14.E When the provider has received reimbursement for services and the review by the Department or Operating Agency identifies that the service delivered or the claims submitted is not in compliance with requirements, the amount reimbursed will be subject to the reversal of claims, recovery of amount reimbursed, suspension of payments, or termination of provider status.

8.500.14.F For private providers payment is based on a statewide fee schedule.

8.500.14.G Reimbursement paid to State or local government HCBS waiver providers differs from the amount paid to private providers of the same service. No public provider may receive payments in the aggregate that exceed its actual costs of providing HCBS waiver services.

1. Reimbursement paid to State and local government HCBS waiver providers shall not exceed actual costs. All State and local HCBS waiver providers must submit an annual cost report for HCBS waiver services.

2. Actual costs will be determined on the basis of the information on the HCBS waiver cost report and obtained by the Department or its designee for the purposes of cost auditing.

    a. The costs submitted by the provider for the most recent available final cost report for a 12 month period shall be used to determine the interim rates for the ensuing 12 month period effective July 1 of each year.

        i. The interim rate will be calculated as total reported costs divided by total units per HCBS waiver service.

        ii. An interim rate shall be determined for each HCBS waiver service provided.

        iii. The most recent available final cost report will be used to set the next fiscal year's interim rates.

    b. Reimbursement to State and local government HCBS waiver providers shall be adjusted retroactively after the close of each 12 month period.

    c. Total costs submitted by the provider shall be reviewed by the Department or its designee and result in a total allowable cost.

    d. The Department will determine the total interim payment through the MMIS.

    e. The Department will reconcile interim payments to the total allowable and make adjustments to payments as necessary. Interim payments shall be paid through the MMIS.

3. Submission of the HCBS waiver cost report shall occur annually for costs incurred during the prior fiscal year.

    a. The cost report for HCBS waiver services must be submitted to the Department annually on October 31 to reflect costs from July 1-June 30.

    b. The cost report will determine the final adjustment to payment for the period for which the costs were reported.

    c. Reconciliation to align the fiscal year reimbursement with actual fiscal year costs after the close of each fiscal year shall be determined by the Department annually.

    e. A State or local government HCBS waiver provider may request an extension of time to submit the cost report. The request for extension shall:

        i. Be in writing and shall be submitted to the Department.

        ii. Document the reason for failure to comply.

        iii. Be submitted no later than ten (10) working days prior to the due date for submission of the cost report.

f. Failure of a State or local government HCBS waiver provider to submit the HCBS waiver cost report by October 31 shall result in the Department withholding all warrants not yet released to the provider as described below:

i. When a State or local government HCBS waiver provider fails to submit a complete and auditable HCBS waiver cost report on time, the HCBS waiver cost report shall be returned to the facility with written notification that it is unacceptable.

1. The State or local government HCBS waiver provider shall have either 30 days from the date of the notice or until the end of the cost report submission period, whichever is later, to submit a corrected HCBS waiver cost report.

2. If the corrected HCBS waiver cost report is still determined to be incomplete or un-auditable, the State or local government HCBS waiver provider shall be given written notification that it shall, at its own expense submit a HCBS waiver cost report prepared by a Certified Public Accountant (CPA). The CPA shall certify that the report is in compliance with all Department rules and shall give an opinion of fairness of presentation of operating results or revenues and expenses.

3. The Department may withhold all warrants not yet released to the provider when the original cost report submission period and 30-day extension have expired and an auditable HCBS waiver cost report has not been submitted.

ii. If the audit of the HCBS waiver cost report is delayed by the state or local government HCBS waiver provider's lack of cooperation, the effective date for the new rate shall be delayed until the first day of the month in which the audit is completed. Lack of cooperation shall mean failure to provide documents, personnel or other resources within its control and necessary for the completion of the audit.

4. Non-allowable costs for State and local government providers offering HCBS waiver services include:

a. Room and Board;

b. Costs which have been allocated to an ICF/IID;

c. Costs for which there is either no supporting documentation or for which the supporting documentation is not sufficient to validate the costs;

d. Costs for services that are available through the Medicaid State Plan or provided on an HCBS waiver other than the HCBS waiver for Persons with Developmental Disabilities;

e. Costs for services that are not authorized on an approved HCBS waiver for Persons with Developmental Disabilities PAR.

f. Costs for services that are not authorized by the Department as an HCBS waiver service;

g. Costs which are not reasonable, necessary, and client related.

5. Adjustment(s) to the HCBS waiver cost report shall be made by the Department's contract auditor to remove reported costs that are non-allowable.

   a. Following the completion of an audit of the cost report the Department or its contract auditor shall notify the affected State or local government HCBS waiver provider of any proposed adjustment(s) to the costs reported on the HCBS waiver cost report and include the basis of the proposed adjustment(s).

   b. The provider may submit additional documentation in response to a proposed adjustment. The Department or its contract auditor must receive the additional documentation or other supporting information from the provider within 14 calendar days of the date of the proposed adjustments letter or the documentation will not be considered.

   c. The Department may grant a reasonable period, no longer than 30 calendar days, for the provider to submit such documents and information, when necessary and appropriate, given the providers' particular circumstances.

   d. The Department or its contract auditor shall complete the audit of the cost report within 30 days of the submission of documentation by the provider.

DO NOT PUBLISH THIS PAGE

Title of Rule: 8.517 Home and Community Based Services for Persons with Spinal Cord Injury
Rule Number: MSB 16-08-19-A
Division / Contact / Phone: LTSS / Samantha Saxe / 303-866-4289

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name:	Health Care Policy and Financing / Medical Services Board
2. Title of Rule:	MSB 16-08-19-A, 8.517 Home and Community Based Services for Persons with Spinal Cord Injury
3. This action is an adoption of:	an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.517.11, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text starting at 8.517.11.C.1.b through the end of 8.517.11.C.1.d with the proposed text. This rule is effective 11/30/16.

DO NOT PUBLISH THIS PAGE

Title of Rule: 8.517 Home and Community Based Services for Persons with Spinal Cord Injury
Rule Number: MSB 16-08-19-A
Division / Contact / Phone: LTSS / Samantha Saxe / 303-866-4289

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The purpose of this rule change is to modify the Complementary and Integrative Health Service (CIHS) provider qualifications to increase provider capacity, accessibility, and client choice among availible service providers. The provider qualifications were set in 2012 when the waiver was initiated as a pilot program. In 2015-16, CMS approved a 5-year waiver renewal that included changes to the CIHS provider model to increase provider capacity and also eliminate the waiting list for the SCI waiver. The provider qualifications currently require a minimum of 5 years' experience in their licensed field. This rule is proposing that the minimum qualifcations for providers be changhed to 3 years' experience in their licensed field; or 2 years' experience in their licensed field with at least one year of experience working with individuals with a spinal cord injury or other long term physical disability, or education specific to the physiology of spinal cord injuries as it pertains the provider's field of practice. Provider capacity has been a challenge since this waiver's inception. Through our reasearch and stakeholder engagement, we think this proposed modification to provider qualifications strikes a better balance between issues of access and having trained providers.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 U.S.C. § 1396a and 42 U.S.C. § 1369n.

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2015);
   25.5-6-1301 through 25.5-6-1303, C.R.S.

DO NOT PUBLISH THIS PAGE

Title of Rule: 8.517 Home and Community Based Services for Persons with Spinal Cord Injury
Rule Number: MSB 16-08-19-A
Division / Contact / Phone: LTSS / Samantha Saxe / 303-866-4289

REGULATORY ANALYSIS

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

   The primary class of persons who will be affected by the proposed rule change is the current and prospective clients enrolled in the HCBS-SCI waiver who access and benefit from Complementary and Integrative Health Services, which include acupuncture, chiropractic care, and massage therapy. Specifically, these clients will have an increased network of providers to select from, taking into account their personal preferences or relationships with practitioners, accessibility to the provider's service location, the client's schedule, and the goals of their service treatments.

   Secondarily, this rule change will affect the current and prospective practitioners and provider facilities by allowing more provider facilities with more therapists to enroll to better serve the growing waiver population.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   This rule will have a positive qualitative impact on SCI waiver clients by providing them with greater accessibility and choice of providers. It will also positively impact current providers by allowing them greater opportunity to hire therapists to serve waiver clients; some providers have expressed interest in expanding their availability to include weekends which would greatly increase opportunities for clients to receive services that work with their schedules. This will also impact prospective providers who have expressed interest in enrolling to provide services but do not have sufficient staff who meet the current qualifications to make it worth their while to enroll as a Medicaid provider.

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

   The proposed rule change is not anticipated to have any budgetary impact. There may be a slight increase in service expenditures to account for clients who have not been receiving frequent services due to provider capacity or accessibility issues.

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

   The proposed rule change is not anticipated to have any budgetary impact. The slight increase in expenditures that may occur are a result of clients having greater access to providers and greater personal choice of providers. All of this would indicate that clients are using the services to improve their health and well-being and remain in their communities.

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

   The proposed rule change is not anticipated to have any budgetary impact. There are no other methods to achieve the purpose of the proposed rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   There are no other options to modify the provider qualifications for these services. If the qualifications remain the same, these services will continue to face provider capacity and client access challenges.

8.517 HOME AND COMMUNITY-BASED SERVICES FOR PERSONS WITH SPINAL CORD INJURY WAIVER

8.517.1 DEFINITIONS OF SERVICES PROVIDED

Adult Day Services means services as defined at Section 8.491.

Complementary and Integrative Health Services means services as defined at Section 8.517.11.

Consumer Directed Attendant Support Services (CDASS) means services as defined at Section 8.510.

Electronic Monitoring means services as defined at Section 8.488.

Home Modification means services as defined at Section 8.493.

Homemaker Services means services as defined at Section 8.490.

In-Home Support Services means services as defined at Section 8.552.

Non-Medical Transportation means services as defined at Section 8.494.

Personal Care Services means services as defined at Section 8.489.

Respite Care means services as defined at Section 8.492.

8.517.2 GENERAL DEFINITIONS

Acupuncture means the stimulation of anatomical points on the body by penetrating the skin with thin, solid, metallic, single-use needles that are manipulated by the hands or by electrical stimulation for the purpose of bringing about beneficial physiologic and /or psychological changes.

Chiropractic Care means the use of manual adjustments (manipulation or mobilization) of the spine or other parts of the body with the goal of correcting alignment and other musculoskeletal problems.

Complementary and Integrative Health Care Plan means the plan developed prior to the delivery of Complementary and Integrative Health Services in accordance with Section 8.517.11.D.

Complementary and Integrative Health Provider means an individual or agency certified annually by the Department of Health Care Policy and Financing to have met the certification standards listed at Section 8.517.11.Denver Metro Area means the counties of Adams, Arapahoe, Denver, Douglas, and Jefferson.

Emergency Systems means procedures and materials used in emergent situations and may include, but are not limited to, an agreement with the nearest hospital to accept patients; an Automated External Defibrillator; a first aid kit; and/or suction, AED, and first aid supplies.

Individual Cost Containment Amount means the average cost of services for a comparable population institutionalized at the appropriate level of care, as determined annually by the Department.

Massage Therapy means the systematic manipulation of the soft tissues of the body, (including manual techniques of gliding, percussion, compression, vibration, and gentle stretching) for the purpose of bringing about beneficial physiologic, mechanical, and/or psychological changes.

Medical Director means an individual that is contracted with the Department of Health Care Policy and Financing to provide oversight of the Complementary and Integrative Health Services and the program evaluation.

Spinal Cord Injury means an injury to the spinal cord which is further defined at 8.517.2.1.

8.517.2.1 SPINAL CORD INJURY DEFINITION

A spinal cord injury is limited to the following broad diagnoses found within the most current version of the International Classification of Diseases (ICD) at the time of assessment:

1. Spinal cord injury unspecified
2. Complete lesion of spinal cord
3. Anterior cord syndrome
4. Central cord syndrome
5. Other specified spinal cord injury
6. Lumbar spinal cord injury without spinal bone injury
7. Sacral spinal cord injury without spinal bone injury
8. Cauda equina spinal cord injury without spinal bone injury
9. Multiple sites of spinal cord injury without spinal bone injury
10. Unspecified site of spinal cord injury without spinal bone injury
11. Injury to cervical nerve root
12. Injury to dorsal nerve root
13. Injury to lumbar nerve root
14. Injury to sacral nerve root
15. Injury to brachial plexus
16. Injury to lumbosacral plexus
17. Injury to multiple sites of nerve roots and spinal plexus
18. Injury to unspecified site of nerve roots and spinal plexus
19. Injury to cervical sympathetic nerve excluding shoulder and pelvic girdles
20. Injury to other sympathetic nerve excluding shoulder and pelvic girdles
21. Injury to other specified nerve(s) of trunk excluding shoulder and pelvic girdles
22. Injury to unspecified nerve of trunk excluding shoulder and pelvic girdles

23. Paraplegia

24. Paraplegia, Unspecified

25. Paraplegia, Complete

26. Paraplegia, Incomplete

27. Quadriplegia/Tetraplegia/Incomplete – unspecified

28. Quadriplegia – C1-C4/Complete

29. Quadriplegia – C1-C4/Incomplete

30. Quadriplegia – C5-C7/Complete

31. Quadriplegia – C5-C7/Incomplete

8.517.3 LEGAL BASIS

The Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver is created upon authorization of a waiver of the state-wideness requirement contained in Section 1902(a)(1) of the Social Security Act (42 U.S.C. § 1396a); and the amount, duration, and scope of services requirements contained in Section 1902(a)(10)(B) of the Social Security Act (42 U.S.C. § 1396a). Upon approval by the United States Department of Health and Human Services, this waiver is granted under Section 1915(c) of the Social Security Act (42 U.S.C. § 1396n). 42 U.S.C. § § 1396a and 1396n are incorporated by reference. Such incorporation, however, excludes later amendments to or editions of the referenced material. Pursuant to 24-4-103(12.5), C.R.S., the Department of Health Care Policy and Financing maintains either electronic or written copies of the incorporated texts for public inspection. Copies may be obtained at a reasonable cost or examined during regular business hours at 1570 Grant Street, Denver, CO 80203. Additionally, any incorporated material in these rules may be examined at any State depository library. This regulation is adopted pursuant to the authority in Section 25.5-1-301, C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, Section 24-4-101 et seq., C.R.S. and the Colorado Medical Assistance Act, Sections 25.5-6-1301 et seq., C.R.S.

The addition of “individual” to the Complementary and Integrative Health Provider definition in section 8.517.2, the addition of hospital level of care eligibility criteria in section 8.517.5.C, the elimination of the waitlist at section 8.517.6.1, the addition of the client’s residence as a service location at section 8.517.11.B.3 and all Medical Director responsibilities are contingent and shall not be in effect until the HCBS-SCI Waiver Renewal CO.0961.R01.00 has been approved by the Centers for Medicare and Medicaid Services (CMS).

8.517.4 SCOPE AND PURPOSE

8.517.4.A. The Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver provides assistance to individuals with spinal cord injuries in the Denver Metro Area that require long term supports and services in order to remain in a community setting.

8.517.4.B. The HCBS-SCI waiver provides an opportunity to study the effectiveness of Complementary and Integrative Health Services and the impact the provision of these service may have on the utilization of other HCBS-SCI waiver and/or acute care services.

8.517.4.C. An independent evaluation shall be conducted no later than January 1, 2020 to determine the effectiveness of the Complementary and Integrative Health Services.

8.517.5 CLIENT ELIGIBILITY

8.517.5.A. ELIGIBLE PERSONS

Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver services shall be offered only to individuals who meet all of the following eligibility requirements:

1. Individuals shall be aged 18 years or older.

2. Individuals shall have a diagnosis of Spinal Cord Injury. This diagnosis must be outlined in 8.517.2.1 and documented on the individual's Professional Medical Information Page (PMIP) and in the Uniform Long Term Care 100.2 (ULTC 100.2) assessment tool.

3. Individuals shall have been determined to have a significant functional impairment as evidenced by a comprehensive functional assessment using the ULTC 100.2 assessment tool that results in at least the minimum scores required per Section 8.401.1.15.

4. Individuals shall reside in the Denver Metro Area as evidenced by residence in one of the following counties:

    a. Adams;

    b. Arapahoe;

    c. Denver;

    d. Douglas; or

    e. Jefferson

8.517.5.B FINANCIAL ELIGIBILITY

Individuals must meet the financial eligibility requirements specified at Section 8.100.7 LONG TERM CARE MEDICAL ASSISTANCE ELIGIBILITY.

8.517.5.C LEVEL OF CARE CRITERIA

Individuals shall require long term support services at a level of care comparable to services typically provided in a nursing facility or hospital.

8.517.5.D NEED FOR HOME AND COMMUNITY-BASED SERVICES FOR PERSONS WITH SPINAL CORD INJURY (HCBS-SCI) WAIVER SERVICES

1. Only individuals that currently receive Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver services, or that have agreed to accept HCBS-SCI services as soon as all other eligibility criteria have been met, are eligible for the HCBS-SCI waiver.

    a. Case management is not an HCBS-SCI service and shall not be used to satisfy this requirement.

b. The desire or need for any Medicaid services other than HCBS-SCI waiver services, as listed at Section 8.517.1, shall not satisfy this eligibility requirement.

2. Individuals that have not received at least one (1) HCBS-SCI waiver service for a period greater than 30 consecutive days shall be discontinued from the waiver.

8.517.5.E EXCLUSIONS

1. Individuals who are residents of nursing facilities or hospitals are not eligible to receive Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver services.

2. HCBS-SCI clients that enter a nursing facility or hospital may not receive HCBS-SCI waiver services while admitted to the nursing facility or hospital.

   a. HCBS-SCI clients admitted to a nursing facility or hospital for 30 consecutive days or longer shall be discontinued from the HCBS-SCI program.

   b. HCBS-SCI clients entering a nursing facility for Respite Care as an HCBS-SCI service shall not be discontinued from the HCBS-SCI program.

8.517.5.F COST CONTAINMENT AND SERVICE ADEQUACY

1. Individuals shall not be eligible for the Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver if the case manager determines any of the following during the initial assessment and service planning process:

   a. The individual's needs cannot be met within the Individual Cost Containment Amount.

   b. The individual's needs are more extensive than HCBS-SCI waiver services are able to support and/or that the individual's health and safety cannot be assured in a community setting.

2. Individuals shall not be eligible for the HCBS-SCI waiver at reassessment if the case manager determines the individual's needs are more extensive than HCBS-SCI waiver services are able to support and/or that the individual's health and safety cannot be assured in a community setting.

3. Individuals may be eligible for the HCBS-SCI waiver at reassessment if the case manager determines that HCBS-SCI waiver services are able to support the individual's needs and the individual's health and safety can be assured in a community setting.

   a. If the case manager expects that the services required to support the individual's needs will exceed the Individual Cost Containment Amount, the Department or its agent will review the service plan to determine if the individual's request for services is appropriate and justifiable based on the individual's condition.

      i) Individuals may request of the case manager that existing services remain intact during this review process.

      ii) In the event that the request for services is denied by the Department or its agent, the case manager shall provide the individual with:

1) The client's appeal rights pursuant to Section 8.057; and

2) Alternative options to meet the individual's needs that may include, but are not limited to, nursing facility placement.

8.517.6 WAITING LIST

1. The number of clients who may be served through the Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver during a fiscal year may be limited by the federally approved waiver.

2. Individuals determined eligible for the HCBS-SCI waiver who cannot be served within the federally approved waiver capacity limits shall be eligible for placement on a waiting list.

3. The waiting list shall be maintained by the Department.

4. The case manager shall ensure the individual meets all eligibility criteria as set forth at Section 8.517.5 prior to notifying the Department to place the individual on the waiting list.

5. The date the case manager determines an individual has met all eligibility requirements as set forth at Section 8.517.5 is the date the Department will use for the individual's placement on the waiting list.

6. When an eligible individual is placed on the waiting list for the HCBS- SCI waiver, the case manager shall provide a written notice of the action in accordance with section 8.057 et seq.

7. As openings become available within the capacity limits of the federally approved waiver, individuals shall be considered for the HCBS-SCI waiver in the order of the individual's placement on the waiting list

8. When an opening for the HCBS-SCI waiver becomes available the Department will provide written notice to the Case Management Agency.

9. Within ten business days of notification from the Department that an opening for the HCBS-SCI waiver is available the Case Management Agency shall:

   a. Reassess the individual for functional level of care using the Department's prescribed instrument if more than six months has elapsed since the previous assessment.

   b. Update the existing functional level of care assessment in the official client record if less than six months has elapsed since the date of the previous assessment.

   c. Reassess for eligibility criteria as set forth at 8.517.5.

   d. Notify the Department of the individual's eligibility status.

8.517.7 START DATE FOR SERVICES

8.517.7.A. The start date of eligibility for Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver services shall not precede the date that all of the

requirements at Section 8.517.5, have been met. The first date for which HCBS-SCI waiver services may be reimbursed shall be the later of the following:

1. The date at which financial eligibility is effective.

2. The date at which the level of care and targeting criteria are certified.

3. The date at which the individual agrees to accept services and signs all necessary intake and service planning forms.

4. The date of discharge from the hospital or nursing facility.

8.517.8 CASE MANAGEMENT FUNCTIONS

8.517.8.A. The requirements at Section 8.486 shall apply to the Case Management Agencies performing the case management functions of the Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver.

8.517.9 PRIOR AUTHORIZATION OF SERVICES

8.517.9.A. All Home and Community-Based Services for Persons with Spinal Cord Injury (HCBS-SCI) waiver services must be prior authorized by the Department or its agent.

8.517.9.B. The Department shall develop the Prior Authorization Request (PAR) form to be used by case managers in compliance with all applicable regulations.

8.517.9.C. Claims for services are not reimbursable if:

1. Services are not consistent with the client's documented medical condition and functional capacity;

2. Services are not medically necessary or are not reasonable in amount, scope, frequency, and duration;

3. Services are duplicative of other services included in the client's Service Plan;

4. The client is receiving funds to purchase services; or

5. Services total more than 24 hours per day of care.

8.517.9.D. Revisions to the PAR that are requested six months or more after the end date shall be disapproved.

8.517.9.E. Payment for HCBS-SCI waiver services is also conditional upon:

a. The client's eligibility for HCBS-SCI waiver services;

b. The provider's certification status; and

c. The submission of claims in accordance with proper billing procedures.

8.517.9.F. Prior authorization of services is not a guarantee of payment. All services must be provided in accordance with regulation and necessary to meet the client's needs.

8.517.9.G. Services requested on the PAR shall be supported by information on the Long Term Care Service Plan, the ULTC-100.2, and written documentation from the income maintenance technician of the client's current monthly income.

8.517.9.H. The PAR start date shall not precede the start date of HCBS-SCI eligibility in accordance with Section 8.517.7.

8.517.9.I. The PAR end date shall not exceed the end date of the HCBS-SCI eligibility certification period.

8.517.10 PROVIDER AGENCIES

8.517.10.A. HCBS-SCI providers shall abide by all general certification standards, conditions, and processes established at Section 8.487.

8.517.11 COMPLEMENTARY AND INTEGRATIVE HEALTH SERVICES

Complementary and Integrative Health Services are limited to Acupuncture, Chiropractic Care, and Massage Therapy as defined at Section 8.517.2.

8.517.11.A. Inclusions

1. Acupuncture used for the treatment of conditions or symptoms related to the client's spinal cord injury.

2. Chiropractic Care used for the treatment of conditions or symptoms related to the client's spinal cord injury.

3. Massage Therapy used for the treatment of conditions or symptoms related to the client's spinal cord injury.

8.517.11.B. Exclusions / Limitations

1. Complementary and Integrative Health Services shall be provided only for the treatment of conditions or symptoms related to the client's spinal cord injury.

2. Complementary and Integrative Health Services shall be limited to the client's assessed need for services as determined by the Complementary and Integrative Health Provider and documented in the Complementary and Integrative Health Care Plan.

3. Complementary and Integrative Health Services shall be provided in an approved outpatient setting in accordance with 8.517.11.C.2 or in the client's residence.

4. Complementary and Integrative Health Services shall be provided only by a Complementary and Integrative Health Provider certified by the Department of Health Care Policy and Financing to have met the certification standards listed at Section 8.517.11.

5. Clients receiving Complementary and Integrative Health Services shall participate in an independent evaluation to determine the effectiveness of the services.

6. The Complementary and Integrative Health Services benefit is limited as follows:

    a. A client may receive each of the three individual Complementary and Integrative Health Services on a single date of service.

b. A client shall not receive more than four (4) units of each individual Complementary and Integrative Health Service on a single date of service.

c. A client shall not receive more than 204 units of a single Complementary and Integrative Health service during a 365 day certification period.

d. A client shall not receive more than 408 combined units of all Complementary and Integrative Health Services during a 365 day certification period.

8.517.11.C. Certification Standards

1. Organization and Staffing

a. Complementary and Integrative Health Services must be provided by licensed, certified, and/or registered individuals operating within the applicable scope of practice.

b. Acupuncturists shall be licensed by the Department of Regulatory Agencies, Division of Registrations as required by the Acupuncturists Practice Act (12-29.5-101, C.R.S.) and have at least three (3) years' experience practicing Acupuncture at a rate of 520 hours per year; or at least two (2) years' experience practicing acupuncture at a rate of 520 hours per year AND at least one (1) year of experience working with individuals with spinal cord injuries or other long term physical disabilities, or education specific to the physiology of spinal cord injuries as it pertains to the treatment of using acupuncture.

c. Chiropractors shall be licensed by the State Board of Chiropractic Examiners as required by the Chiropractors Practice Act (12-33-101, C.R.S.) and have at least three (3) years' experience practicing Chiropractic Care at a rate of 520 hours per year; or at least two (2) years' experience practicing Chiropractic Care at a rate of 520 hours per year AND at least one (1) year of experience working with individuals with spinal cord injuries or other long term physical disabilities, or education specific to the physiology of spinal cord injuries as it pertains to the treatment of using chiropractic care.

d. Massage Therapists shall be registered by the Department of Regulatory Agencies, Division of Registrations as required by the Massage Therapy Practice Act (12-35.3-101, C.R.S.) and have at least three (3) years' experience practicing Massage Therapy at a rate of 520 hours per year; or at least two (2) years' experience practicing massage therapy at a rate of 520 hours per year AND at least (1) year of experience working with individuals with spinal cord injuries or other long term physical disabilities, or education specific to the physiology of spinal cord injuries as it pertains to the treatment of using massage therapy.

2. Environmental Standards for Complementary and Integrative Health Services provided in an outpatient setting.

a. Complementary and Integrative Health Providers shall develop a plan for infection control that is adequate to avoid the sources of and prevent the transmission of infections and communicable diseases. They shall also develop a

system for identifying, reporting, investigating and controlling infections and communicable diseases of patients and personnel. Sterilization procedures shall be developed and implemented in necessary service areas.

b. Policies shall be developed and procedures implemented for the effective control of insects, rodents, and other pests.

c. All wastes shall be disposed in compliance with local, state and federal laws.

d. A preventive maintenance program to ensure that all essential mechanical, electrical and patient care equipment is maintained in safe and sanitary operating condition shall be provided. Emergency Systems, and all essential equipment and supplies shall be inspected and maintained on a frequent or as needed basis.

e. Housekeeping services to ensure that the premises are clean and orderly at all times shall be provided and maintained. Appropriate janitorial storage shall be maintained.

f. Outpatient settings shall be constructed and maintained to ensure access and safety.

g. Outpatient settings shall demonstrate compliance with the building and fire safety requirements of local governments and other state agencies.

3. Failure to comply with the requirements of this rule may result in the revocation of the Complementary and Integrative Health Provider certification.

8.517.11.D COMPLEMENTARY AND INTEGRATIVE HEALTH CARE PLAN

1. Complementary and Integrative Health Providers shall:

a. Guide the development of the Complementary and Integrative Health Care Plan in coordination with the client and/or client's representative.

b. Recommend the appropriate modality, amount, scope, and duration of the Complementary and Integrative Health Services within the established limits as listed at 8.517.11.B;

c. Recommend only services that are necessary and appropriate and will be rendered by the recommending Complementary and Integrative Health Provider.

2. The Complementary and Integrative Health Provider shall reassess the Complementary and Integrative Health Care Plan at least annually or more frequently as necessary. The reassessment shall include a visit with the client.

3. When recommending the use of Complementary and Integrative Health Services for the treatment of a condition or symptom related to the client's spinal cord injury, the Complementary and Integrative Health Provider should use evidence from published medical literature that demonstrates the effectiveness of the services for the treatment of the condition or symptom.

a. Where no evidence exists, the Complementary and Integrative Health Provider shall use their field expertise to guide service recommendations.

b. If additional expertise is required the Complementary and Integrative Health Provider may; consult the Medical Director and/or consult other Complementary and Integrative Health service providers.

4. The Complementary and Integrative Health Care Plan shall be developed using Department prescribed form(s) or template(s).

6. The Complementary and Integrative Health Care Plan shall include at least the following:

a. A summary of the client's treatment history;

b. An assessment of the client's current medical conditions/needs.

c. The amount, scope, and duration of each recommended Complementary and Integrative Health Services and the expected outcomes.

d. The recommended schedule of services.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Special Financing Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors, 10 CCR 2505-10, Section 8.960.
Rule Number: MSB 16-05-19-A
Division / Contact / Phone: Special Financing / Chandra Vital / 303-866-5506

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name:	Health Care Policy and Financing / Medical Services Board
2. Title of Rule:	MSB 16-05-19-A, Revision to the Medical Assistance Special Financing Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors, 10 CCR 2505-10, Section 8.960.
3. This action is an adoption of:	an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.960, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text starting at 8.960.1 through th end of 8.960.1 with the proposed text. Replace the current text starting at 8.960.3.E.3 through the end of 8.960.3.E.3 with the proposed text. Replace the current text starting at Appendix A through the end of Appendix A with the proposed text. This rule is effective 11/30/16.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Special Financing Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors, 10 CCR 2505-10, Section 8.960.
Rule Number: MSB 16-05-19-A
Division / Contact / Phone: Special Financing / Chandra Vital / 303-866-5506

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   This rule change incorporates immediate dentures, partial denture made with cast metal framework with resin denture bases, removal of torus palatinus/mandibularis, and denture program payments into Appendix A.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

   N/A

3. Federal authority for the Rule, if any:

   N/A

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2015);
   25.5-3-404, C.R.S. (2015)

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Title of Rule: Revision to the Medical Assistance Special Financing Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors, 10 CCR 2505-10, Section 8.960.
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REGULATORY ANALYSIS

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

   This rule incorporates immediate dentures, partial dentures made with cast metal framework with resin denture bases, removal of torus palatinus/mamdibularis, and denture program payment changes into Appendix A. These additions will add an extra benefit for eligible seniors. The only cost the eligible seniors will have is the Max Patient Co-pay listed on Appendix A.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   The incorporation of the immediate dentures, partial dentures made with cast metal framework with resin denture bases copayments will be the same as existing complete and partial dentures. The incorporation of the removal of torus palatinus/mandivularis will have the same max co-pay as other oral and maxillofacial surgeries listed in Appendix A. Therefore, there is no change in cost or economic impact on eligible seniors.

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

   The Colorado Dental Health Care Program for Low-Income Seniors has a fixed appropriation and the addition of these services will not increase the Department's administrative costs for the program.

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

   The incorporation of the immediate dentures allows the eligible seniors to maintain healthy eating after tooth extraction. The partial dentures made with cast metal framework with resin denture bases is more durable than the current flexible resin base partial dentures. The incorporation of the removal of torus

palatinus/mandibularis will offer a solution if the torus palatinus/mandibularis causes a problem in the placement of dentures or dental prosthesis.

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

   This rule change is necessary to incorporate these valuable services to the eligible seniors.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   This rule change is necessary to incorporate the immediate dentures, partial dentures made with cast metal framework with resin denture bases, and the removal of torus palatinus/mandibularis into Appendix A. There are no alternatives to amending the existing rule.

8.960 COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS

8.960.1 Definitions

Arrange For or Arranging For means demonstrating established relations with Qualified Providers for any of the Covered Dental Care Services not directly provided by the applicant.

Covered Dental Care Services include Diagnostic Imaging, Emergency Services, Endodontic Services, Evaluation, Oral and Maxillofacial Surgery, Palliative Treatment, Periodontal Treatment, Preventive Services, Prophylaxis, Removable Prosthesis, and Restorative Services as listed by alphanumeric procedure code in Appendix A.

C.R.S. means the Colorado Revised Statutes.

Dental Health Professional Shortage Area or Dental HPSA means a geographic area, population group, or facility so designated by the Health Resources and Services Administration of the U.S. Department of Health and Human Services.

Dental Prosthesis means any device or appliance replacing one or more missing teeth and associated structures if required.

Department means the Colorado Department of Health Care Policy and Financing established pursuant to title 25.5, C.R.S. (2014).

Diagnostic Imaging means a visual display of structural or functional patterns for the purpose of diagnostic evaluation.

Economically Disadvantaged means a person whose Income is at or below 250% of the most recently published federal poverty level for a household of that size.

Eligible Senior or Client means an adult who is 60 years of age or older, who is Economically Disadvantaged, who is able to demonstrate lawful presence in the country, who is not eligible for dental services under Medicaid or the Old Age Pension Health and Medical Care Program, and who does not have private dental insurance. An Eligible Senior shall be considered lawfully present in the country if they produce a document or waiver in accordance with 1 CCR 204-30 Rule 5 (effective August 30, 2016), which is hereby incorporated by reference. This incorporation of 1 CCR 204-30 Rule 5 excludes later amendments to, or editions of, the referenced material. Pursuant to § 24-4-103 (12.5), C.R.S., the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203. Certified copies of incorporated materials are provided at cost upon request.

Emergency Services means the need for immediate intervention by a Qualified Provider to stabilize an oral cavity condition.

Endodontic Services means services which are concerned with the morphology, physiology and pathology of the human dental pulp and periradicular tissues, including pulpectomy.

Evaluation means an assessment that may include gathering of information through interview, observation, examination, and use of specific tests that allows a dentist to diagnose existing conditions.

Federally Qualified Health Center means a federally funded nonprofit health center or clinic that serves medically underserved areas and populations as defined in 42 U.S.C. section 1395x (aa)(4).

Income means any cash, payments, wages, in-kind receipt, inheritance, gift, prize, rents, dividends, or interest that are received by an individual or family. Income may be self-declared. Resources are not included in Income.

Max Allowable Fee means the total reimbursement listed by procedure for Covered Dental Care Services under the Colorado Dental Health Care Program for Low-Income Seniors in Appendix A. The Max Allowable Fee is the sum of the Program Payment and the Max Client Co-Pay.

Max Client Co-Pay means the maximum amount that a Qualified Provider may collect from an Eligible Senior listed by procedure in Appendix A for Covered Dental Services under the Colorado Dental Health Care Program for Low-Income Seniors.

Medicaid means the Colorado medical assistance program as defined in article 4 of title 25.5, C.R.S. (2014).

Old Age Pension Health and Medical Care Program means the program described at 10 CCR 2505-10, section 8.940 et. seq. and as defined in sections 25.5-2-101 and 26-2-111(2), C.R.S. (2014)

Oral and Maxillofacial Surgery means the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

Palliative Treatment for dental pain means emergency treatment to relieve the client of pain; it is not a mechanism for addressing chronic pain.

Periodontal Treatment means the therapeutic plan intended to stop or slow periodontal disease progression.

Preventive Services means services concerned with promoting good oral health and function by preventing or reducing the onset and/or development of oral diseases or deformities and the occurrence of oro-facial injuries.

Program Payment means the maximum amount by procedure listed in Appendix A for Covered Dental Care Services for which a Qualified Grantee may invoice the Department under the Colorado Dental Health Care Program for Low-Income Seniors

Prophylaxis means the removal of dental plaque and calculus from teeth, in order to prevent dental caries, gingivitis and periodontitis.

Qualified Grantee means an entity that can demonstrate that it can provide or Arrange For the provision of Covered Dental Care Services and may include but is not limited to:

1. An Area Agency on Aging, as defined in section 26-11-201, C.R.S. (2014);

2. A community-based organization or foundation;

3. A Federally Qualified Health Center, safety-net clinic, or health district;

4. A local public health agency; or

5. A private dental practice.

Qualified Provider means a licensed dentist or dental hygienist in good standing in Colorado or a person who employs a licensed dentist or dental hygienist in good standing in Colorado and who is willing to accept reimbursement for Covered Dental Services. A Qualified Provider may also be a Qualified Grantee if the person meets the qualifications of a Qualified Grantee.

Removable Prosthesis means complete or partial Dental Prosthesis, which after an initial fitting by a dentist, can be removed and reinserted by the eligible senior.

Restorative Services means services rendered for the purpose of rehabilitation of dentition to functional or aesthetic needs of the client.

Senior Dental Advisory Committee means the advisory committee established pursuant to section 25.5-3-406, C.R.S. (2014).

8.960.2 Legal Basis

The Colorado Dental Health Care Program for Low-Income Seniors is authorized by state law at part 4 of article 3 of title 25.5, C.R.S. (2014).

8.960.3 Request of Grant Proposals and Grant Award Procedures

8.960.3.A Request for Grant Proposals

Grant awards shall be made through an application process. The request for grant proposals form shall be issued by the Department and posted for public access on the Department's website at https://www.colorado.gov/hcpf/research-data-and-grants at least 30 days prior to the due date.

8.960.3.B Evaluation of Grant Proposals

Proposals submitted for the Colorado Dental Health Care Program for Low-Income Seniors will be evaluated by a review panel in accordance with the following criteria developed under the advice of the Senior Dental Advisory Committee.

1. The review panel will be comprised of individuals who are deemed qualified by reason of training and/or experience and who have no personal or financial interest in the selection of any particular applicant.

2. The sole objective of the review panel is to recommend to the Department's executive director those proposals which most accurately and effectively meet the goals of the program within the available funding.

3. Preference will be given to grant proposals that clearly demonstrate the applicant's ability to:

   a. Outreach to and identify Eligible Seniors;

   b. Collaborate with community-based organizations; and

   c. Serve a greater number of Eligible Seniors or serve Eligible Seniors who reside in a geographic area designated as a Dental HPSA.

4. The review panel shall consider the distribution of funds across the state in recommending grant proposals for awards. The distribution of funds should be based on the estimated percentage of Eligible Seniors in the state by Area Agency on Aging region as provided by the Department.

8.960.3.C Grant Awards

The Department's executive director, or his or her designee, shall make the final grant awards to selected Qualified Grantees for the Colorado Dental Health Care Program for Low-Income Seniors.

8.960.3.D Qualified Grantee Responsibilities

A Qualified Grantee that is awarded a grant under the Colorado Dental Health Care Program for Low-Income Seniors is required to:

1. Identify and outreach to Eligible Seniors and Qualified Providers;

2. Demonstrate collaboration with community-based organizations;

3. Ensure that Eligible Seniors receive Covered Dental Care Services efficiently without duplication of services;

4. Maintain records of Eligible Seniors serviced, Covered Dental Care Services provided, and moneys spent for a minimum of six (6) years;

5. Distribute grant funds to Qualified Providers in its service area or directly provide Covered Dental Care Services to Eligible Seniors;

6. Expend no more than seven (7) percent of the amount of its grant award for administrative purposes; and

7. Submit an annual report as specified under 8.960.3.F.

8.960.3.E Invoicing

A Qualified Grantee that is awarded a grant under the Colorado Dental Health Care Program for Low-Income Seniors shall submit invoices on a form and schedule specified by the Department. Covered Dental Care Services shall be provided before a Qualified Grantee may submit an invoice to the Department.

1. Invoices shall include the number of Eligible Seniors served, the alphanumeric code and procedure description as listed in Appendix A, and any other information required by the Department.

2. The Department will pay no more than the established Program Payment per procedure rendered.

3. Eligible Seniors shall not be charged more than the Max Client Co-Pay as listed in Appendix A.

4. Qualified Grantees may invoice for no more than seven (7) percent of the Program Payment for administrative costs.

8.960.3.F Annual Report

On or before September 1, 2016, and each September 1 thereafter, each Qualified Grantee receiving funds from the Colorado Dental Health Care Program for Low-Income Seniors shall submit a report to the Department following the state fiscal year contract period.

The annual report shall be completed in a format specified by the Department and shall include:

1. The number of Eligible Seniors served;

2. The types of Covered Dental Care Services provided;

3. An itemization of administrative expenditures; and

4. Any other information deemed relevant by the Department.

10 CCR 2505-10 § 8.960 APPENDIX A: COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS COVERED SERVICES AND PROCEDURE CODES

Capitalized terms within this appendix shall have the meaning specified in the Definitions section.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Periodic oral evaluation - established client	D0120	$46.00	$46.00	$0.00	Evaluation performed on a client of record to determine any changes in the client's dental and medical health status since a previous comprehensive or periodic evaluation. This may include an oral cancer evaluation and periodontal evaluation, diagnosis, treatment planning. Frequency: One time per 6 month period per client.
Limited oral evaluation - problem focused	D0140	$62.00	$52.00	$10.00	Evaluation limited to a specific oral health problem or complaint. This code must be used in association with a specific oral health problem or complaint and is not to be used to address situations that arise during multi-visit treatments covered by a single fee, such as, endodontic or post-operative visits related to treatments including prosthesis. Specific problems may include dental emergencies, trauma, acute infections, etc. Cannot be used for adjustments made to prosthesis provided within previous 6 months. Cannot be used as an encounter fee.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Comprehensive oral evaluation - new or established client	D0150	$81.00	$81.00	$0.00	Evaluation used by general dentist or a specialist when evaluating a client comprehensively. Applicable to new clients; established clients with significant health changes or other unusual circumstances; or established clients who have been absent from active treatment for three or more years. It is a thorough evaluation and recording of the extraoral and intraoral hard and soft tissues, and an evaluation and recording of the client's dental and medical history and general health assessment. A periodontal evaluation, oral cancer evaluation, diagnosis and treatment planning should be included. Frequency: 1 per 3 years per client. Cannot be charged on the same date as D0180.
Comprehensive periodontal evaluation - new or established client	D0180	$88.00	$88.00	$0.00	Evaluation for clients presenting signs & symptoms of periodontal disease & clients with risk factors such as smoking or diabetes. It includes evaluation of periodontal conditions, probing and charting, evaluation and recording of the client's dental and medical history and general health assessment. It may include the evaluation and recording of dental caries,

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					missing or unerupted teeth, restorations, occlusal relationships and oral cancer evaluation. Frequency: 1 per 3 years per client. Cannot be charged on the same date as D0150.
Intraoral - complete series of radiographic images	D0210	$125.00	$125.00	$0.00	Radiographic survey of whole mouth, usually consisting of 14-22 periapical & posterior bitewing images intended to display the crowns & roots of all teeth, periapical areas of alveolar bone. Panoramic radiographic image & bitewing radiographic images taken on the same date of service shall not be billed as a D0210. Payment for additional periapical radiographs within 60 days of a full month series or a panoramic film is not covered unless there is evidence of trauma. Frequency: 1 per 5 years per client. Any combination of x-rays taken on the same date of service that equals or exceeds the max allowable fee for D0210 must be billed and reimbursed as D0210. Should not be charged in addition to panoramic film D0330. Either D0330 or D0210 per 5 year period.
Intraoral - periapical first radiographic image	D0220	$25.00	$25.00	$0.00	D0220 one (1) per day per client. Report additional radiographs as D0230. Any combination of D0220, D0230,

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					D0270, D0272, D0273, or D0274 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210. D0210 will only be reimbursed every 5 years.
Intraoral - periapical each additional radiographic image	D0230	$23.00	$23.00	$0.00	D0230 must be utilized for additional films taken beyond D0220. Any combination of D0220, D0230, D0270, D0272, D0273, or D0274 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210. D0210 will only be reimbursed every 5 years.
Bitewing - single radiographic image	D0270	$26.00	$26.00	$0.00	Frequency: 1 in a 12 month period. Report more than 1 radiographic image as: D0272 two (2); D0273 three (3); D0274 four (4). Any combination of D0220, D0230, D0270, D0272, D0273, or D0274 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.
Bitewings - two radiographic images	D0272	$42.00	$42.00	$0.00	Frequency: 1 time in a 12 month period. Any combination of D0220, D0230, D0270, D0272, D0273, or D0274 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Bitewings - three radiographic images	D0273	$52.00	$52.00	$0.00	Frequency: 1 time in a 12 month period. Any combination of D0220, D0230, D0270, D0272, D0273, or D0274 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.
Bitewings - four radiographic images	D0274	$60.00	$60.00	$0.00	Frequency: 1 time in a 12 month period. Any combination of D0220, D0230, D0270, D0272, D0273, or D0274 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.
Panoramic radiographic image	D0330	$63.00	$63.00	$0.00	Frequency: 1 per 5 years per client. Cannot be charged in addition to full mouth series D0210. Either D0330 or D0210 per 5 years.
Prophylaxis - adult	D1110	$88.00	$88.00	$0.00	Removal of plaque, calculus and stains from the tooth structures with intent to control local irritational factors. Frequency: • 1 time per 6 calendar months; 2 week window accepted. • May be billed for routine prophylaxis. • D1110 may be billed with D4341 and D4342 one time during initial periodontal therapy for prophylaxis of areas of the mouth not receiving nonsurgical periodontal

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					therapy. When this option is used, individual should still be placed on D4910 for maintenance of periodontal disease. D1110 can only be charged once, not per quadrant, and represents areas of the mouth not included in the D4341 or D4342 being reimbursed. • May be alternated w/D4910 for maintenance of periodontally-involved individuals. • Cannot be used as 1 month re-evaluation following nonsurgical periodontal therapy.
Topical application of fluoride varnish	D1206	$52.00	$52.00	$0.00	Topical fluoride application is to be used in conjunction with prophylaxis or preventive appointment. Should be applied to whole mouth. Frequency: up to four (4) times per 12 calendar months. Cannot be used with D1208.
Topical application of fluoride - excluding varnish	D1208	$52.00	$52.00	$0.00	Any fluoride application, including swishing, trays or paint on variety, to be used in conjunction with prophylaxis or preventive appointment. Frequency: one (1) time per 12 calendar months. Cannot be used with D1206. D1206 varnish should be utilized in lieu

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					of D1208 whenever possible.
Amalgam - one surface, primary or permanent	D2140	$107.00	$97.00	$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Amalgam - two surfaces, primary or permanent	D2150	$138.00	$128.00	$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Amalgam - three surfaces, primary or permanent	D2160	$167.00	$157.00	$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Amalgam - four or more surfaces, primary or permanent	D2161	$203.00	$193.00	$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - one surface, anterior	D2330	$115.00	$105.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. See Explanation of Restorations.
Resin-based composite - two surfaces, anterior	D2331	$146.00	$136.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					Explanation of Restorations.
Resin-based composite - three surfaces, anterior	D2332	$179.00	$169.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - four or more surfaces or involving incisal angle (anterior)	D2335	$212.00	$202.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - one surface, posterior	D2391	$134.00	$124.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite -two surfaces, posterior	D2392	$176.00	$166.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - three surfaces, posterior	D2393	$218.00	$208.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - four or more surfaces, posterior	D2394	$268.00	$258.00	$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					same restoration. See Explanation of Restorations.
Crown - porcelain/ceramic substrate	D2740	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - porcelain fused to high noble metal	D2750	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - porcelain fused to predominantly base metal	D2751	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - porcelain fused to noble metal	D2752	$780.00	$730.00	$50.00	Only one the following will be reimbursed each 84 months per client per tooth: D2740, D2750,

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - 3/4 cast predominantly base metal	D2781	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - 3/4 cast noble metal	D2782	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - 3/4 porcelain/ceramic	D2783	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Crown - full cast high noble metal	D2790	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - full cast predominantly base metal	D2791	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - full cast noble metal	D2792	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - titanium	D2794	$780.00	$730.00	$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Re-cement or re-bond inlay, onlay, veneer or partial coverage restoration	D2910	$87.00	$77.00	$10.00	Not allowed within 6 months of placement.
Re-cement or re-bond crown	D2920	$89.00	$79.00	$10.00	Not allowed within 6 months of placement.
Core buildup, including any pins when required	D2950	$225.00	$200.00	$25.00	Only one of the following will be reimbursed per 84 months per client per tooth. D2950, D2952, or D2954. Refers to building up of coronal structure when there is insufficient retention for a separate extracoronal restorative procedure. A core buildup is not a filler to eliminate any undercut, box form, or concave irregularity in a preparation. Not payable on the same tooth and same day as D2951.
Pin retention per tooth	D2951	$50.00	$40.00	$10.00	Pins placed to aid in retention of restoration. Can only be used in combination with a multi-surface amalgam.
Cast post and core in addition to crown	D2952	$332.00	$307.00	$25.00	Only one of the following will be reimbursed per 84 months per client per tooth. D2950, D2952, or D2954. Refers to building up of anatomical crown when restorative crown will be placed. Not payable on the same tooth and same day as D2951.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Prefabricated post and core in addition to crown	D2954	$269.00	$244.00	$25.00	Only one of the following will be reimbursed per 84 months per client per tooth. D2950, D2952, or D2954. Core is built around a prefabricated post. This procedure includes the core material and refers to building up of anatomical crown when restorative crown will be placed. Not payable on the same tooth and same day as D2951.
Endodontic therapy, anterior tooth (excluding final restoration)	D3310	$566.40	$516.40	$50.00	Complete root canal therapy; Includes all appointments necessary to complete treatment; also includes intra-operative radiographs. Does not include diagnostic evaluation and necessary radiographs/diagnostic images. Teeth covered: 6-11 and 22-27.
Endodontic therapy, bicuspid tooth (excluding final restoration)	D3320	$661.65	$611.65	$50.00	Complete root canal therapy; Includes all appointments necessary to complete treatment; also includes intra-operative radiographs. Does not include diagnostic evaluation and necessary radiographs/diagnostic images. Teeth covered: 4, 5, 12, 13, 20, 21, 28, and 29.
Endodontic therapy, molar (excluding final restoration)	D3330	$786.31	$736.31	$50.00	Complete root canal therapy; Includes all appointments necessary to complete treatment; also includes intra-operative radiographs. Does not include diagnostic evaluation and necessary

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					radiographs/diagnostic images. Teeth covered: 2, 3, 14, 15, 18, 19, 30, and 31.
Periodontal scaling & root planing - four or more teeth per quadrant	D4341	$177.00	$167.00	$10.00	Involves instrumentation of the crown and root surfaces of the teeth to remove plaque and calculus from these surfaces. For clients with periodontal disease and is therapeutic, not prophylactic. D4341 and D1110 can be reported on same service date when D1110 is utilized for areas of the mouth that are not affected by periodontal disease. D1110 can only be charged once, not per quadrant; A diagnosis of periodontitis with clinical attachment loss (CAL) included. Diagnosis and classification of the periodontology case type must be in accordance with documentation as currently established by the American Academy of Periodontology. Current periodontal charting must be present in client chart documenting active periodontal disease. Frequency: • 1 time per quadrant per 36 month interval. • No more than 2 quadrants may be considered in a single visit in a non-hospital setting. Documentation

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					of other treatment provided at same time will be requested. • Any follow-up and re-evaluation are included in the initial reimbursement.
Periodontal scaling & root planing - one to three teeth per quadrant	D4342	$128.00	$128.00	$0.00	Involves instrumentation of the crown and root surfaces of the teeth to remove plaque and calculus from these surfaces. For clients with periodontal disease and is therapeutic, not prophylactic. D4342 and D1110 can be reported on same service date when date when D1110 is utilized for areas of the mouth that are not affected by periodontal disease. D1110 can only be charged once, not per quadrant; A diagnosis of periodontitis with clinical attachment loss (CAL) included. Current periodontal charting must be present in client chart documenting active periodontal disease. Frequency: • 1 time per quadrant per 36 month interval. • No more than 2 quadrants may be considered in a single visit in a non-hospital setting.. Documentation of other treatment

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					provided at same time will be requested. • Any follow-up and re-evaluation are included in the initial reimbursement.
Periodontal maintenance procedures	D4910	$136.00	$136.00	$0.00	Procedure following periodontal therapy D4341 or D4342. This procedure includes removal of the bacterial plaque and calculus from supragingival and subgingival regions, site specific scaling and root planing where indicated and polishing the teeth. Frequency: • Up to four times per fiscal year per client. • Cannot be charged within the first three months following active periodontal treatment.
Complete denture - maxillary	D5110	$793.00	$713.00	$80.00	Reimbursement made upon delivery of a complete maxillary denture to the client. D5110 or D5120 cannot be used to report an immediate denture, D5130 or D5140. Routine follow-up adjustments/relines within 6 months are to be anticipated and are included in the initial reimbursement. A complete denture is made after teeth have been removed and the gum and bone tissues have healed - or to

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					replace an existing denture. Complete dentures are provided once adequate healing has taken place following extractions. This can vary greatly depending upon client, oral health, overall health, and other confounding factors. Frequency: Program will only pay for one per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.
Complete denture - mandibular	D5120	$793.00	$713.00	$80.00	Reimbursement made upon delivery of a complete mandibular denture to the client. D5110 or D5120 cannot be used to report an immediate denture, D5130, D5140. Routine follow-up adjustments/relines within 6 months are to be anticipated and are included in the initial reimbursement. A complete denture is made after teeth have been removed and the gum and bone tissues have healed - or to replace an existing denture. Complete dentures are provided once adequate healing has taken place following extractions. This can vary greatly depending upon client, oral health, overall health, and other confounding factors. Frequency: Program will only pay for one per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Immediate denture – maxillary	D5130	$793.00	$713.00	$80.00	Reimbursement made upon delivery of an immediate maxillary denture to the client. Routine follow-up adjustments/soft tissue condition relines within 6 months are to be anticipated and are included in the initial reimbursement. An immediate denture is made prior to teeth being extracted and is inserted same day of extraction of remaining natural teeth. Frequency: D5130 can be reimbursed only once per lifetime per client. Complete denture, D5110, may be considered 5 years after immediate denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.
Immediate denture – mandibular	D5140	$793.00	$713.00	$80.00	Reimbursement made upon delivery of an immediate mandibular denture to the client. Routine follow-up adjustments/soft tissue condition relines within 6 months are to be anticipated and are included in the initial reimbursement. An immediate denture is made prior to teeth being extracted and is inserted same day of extraction of remaining natural teeth. Frequency: D5140 can be reimbursed only once per lifetime per client. Complete

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					dentures, D5120, may be considered 5 years after immediate denture was reimbursed – documentation that existing prosthesis cannot be made serviceable must be maintained.
Maxillary partial denture - resin base (including any conventional clasps, rests and teeth)	D5211	$700.00	$640.00	$60.00	Reimbursement made upon delivery of a complete partial maxillary denture to the client. D5211 and D5212 are considered definitive treatments. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial resin base denture can be made right after having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial resin base denture can also be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: Program will only pay for one resin maxillary per every 3 years - documentation that existing prosthesis cannot be made serviceable must be maintained.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Mandibular partial denture - resin base (including any conventional clasps, rests and teeth)	D5212	$778.00	$718.00	$60.00	Reimbursement made upon delivery of a complete partial mandibular denture to the client. D5211 and D5212 are considered definitive treatment. Routine follow-up adjustments/relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial resin base denture can be made right after having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial resin base denture can also be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: Program will only pay for one resin mandibular per every 3 years - documentation that existing prosthesis cannot be made serviceable must be maintained.
Maxillary partial denture – cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	D5213	$778.00	$718.00	$60.00	

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					Reimbursement made upon delivery of a complete partial maxillary denture to the client. D5213 and D5214 are considered definitive treatment. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial cast metal base can also be made right after having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial cast metal base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: Program will only pay for one maxillary per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.
Mandibular partial denture – cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	D5214	$778.00	$718.00	$60.00	Reimbursement made upon delivery of a complete partial mandibular denture to the client. D5213 and D5214 are considered definitive treatment. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial cast metal base can be made right after having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial cast metal base denture can also

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: Program will only pay for one mandibular per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.
Immediate maxillary partial denture – resin base (including any conventional clasps, rests and teeth)	D5221	$509.00	$449.00	$60.00	Reimbursement made upon delivery of an immediate partial maxillary denture to the client. D5221 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction. Routine follow-up adjustments or relines within 6 months is to be anticipated and are included in the initial reimbursement. An immediate partial resin base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: A maxillary partial denture may be considered 3 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					maintained.
Immediate mandibular partial denture – resin base (including any conventional clasps, rests and teeth)	D5222	$509.00	$449.00	$60.00	Reimbursement made upon delivery of an immediate partial mandibular denture to the client. D5222 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction. Routine follow-up adjustments or relines within 6 months is to be anticipated and are included in the initial reimbursement. An immediate partial resin base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: A mandibular partial denture may be considered 3 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.
Immediate maxillary partial denture – cast metal framework with resin denture bases (including any conventional	D5223				Reimbursement made upon delivery of an immediate partial maxillary denture to the client. D5223 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
clasps, rests and teeth)		$778.00	$718.00	$60.00	Routine follow-up adjustments or relines within 6 months is to be anticipated and are included in the initial reimbursement. An immediate partial cast metal framework with resin base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: A maxillary partial denture may be considered 5 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.
Immediate mandibular partial denture – cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	D5224	$778.00	$718.00	$60.00	Reimbursement made upon delivery of an immediate partial mandibular denture to the client. D5224 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. An immediate partial cast metal framework with resin base denture can be made before having teeth extracted if the teeth being removed are in the

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: A mandibular partial denture may be considered 5 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.
Repair broken complete denture base	D5510	$87.00	$77.00	$20.00	Repair broken complete denture base.
Replace missing or broken teeth - complete denture (each tooth)	D5520	$73.00	$63.00	$10.00	Replacement/repair of missing or broken teeth.
Repair resin denture base	D5610	$95.00	$85.00	$10.00	Repair of upper/lower partial denture base.
Repair or replace broken clasp	D5630	$123.00	$113.00	$10.00	Repair of broken clasp on partial denture base – per tooth.
Replace broken teeth-per tooth	D5640	$80.00	$70.00	$10.00	Repair/replacement of missing tooth.
Add tooth to existing partial denture	D5650	$109.00	$99.00	$10.00	Adding tooth to partial denture base. Documentation may be requested when charged on partial delivered in last 12 months.
Add clasp to existing partial denture	D5660	$131.00	$121.00	$10.00	Adding clasp to partial denture base – per tooth. Documentation may be requested when charged on partial delivered in last 12 months.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Rebase complete maxillary denture	D5710	$322.00	$297.00	$25.00	Rebasing the denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.
Rebase complete mandibular denture	D5711	$322.00	$297.00	$25.00	Rebasing the denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.
Rebase maxillary partial denture	D5720	$304.00	$279.00	$25.00	Rebasing the partial denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.
Rebase mandibular partial denture	D5721	$304.00	$279.00	$25.00	Rebasing the partial denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Reline complete maxillary denture (chairside)	D5730	$182.00	$172.00	$10.00	Chair side reline that resurfaces without processing denture base. Frequency: One (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline complete mandibular denture (chairside)	D5731	$182.00	$172.00	$10.00	Chair side reline that resurfaces without processing denture base. Frequency: One (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline maxillary partial denture (chairside)	D5740	$167.00	$157.00	$10.00	Chair side reline that resurfaces without processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline mandibular partial denture (chairside)	D5741	$167.00	$157.00	$10.00	Chair side reline that resurfaces without processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline complete maxillary denture (laboratory)	D5750	$243.00	$218.00	$25.00	Laboratory reline that resurfaces with processing denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					months. Cannot be charged in addition to a rebase in a 12 month period.
Reline complete mandibular denture (laboratory)	D5751	$243.00	$218.00	$25.00	Laboratory reline that resurfaces with processing denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline maxillary partial denture (laboratory)	D5760	$239.00	$214.00	$25.00	Laboratory reline that resurfaces with processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline mandibular partial denture (laboratory)	D5761	$239.00	$214.00	$25.00	Laboratory reline that resurfaces with processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Extraction, erupted tooth or exposed root (elevation and/or forceps removal)	D7140	$82.00	$72.00	$10.00	Routine removal of tooth structure, including minor smoothing of socket bone, and closure as necessary. Treatment notes must include documentation that an extraction was done per tooth.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Surgical removal of erupted tooth requiring removal of bone and/or sectioning of tooth, and including elevation of mucoperiosteal flap if indicated	D7210	$135.00	$125.00	$10.00	Includes removal of bone, and/or sectioning of erupted tooth, smoothing of socket bone and closure as necessary. Treatment notes must include documentation that a surgical extraction was done per tooth.
Surgical removal of residual tooth roots (cutting procedure)	D7250	$143.00	$133.00	$10.00	Includes removal of bone, and/or sectioning of residual tooth roots, smoothing of socket bone and closure as necessary. Treatment notes must include documentation that a surgical extraction was done per tooth. Can only be charged once per tooth. Cannot be charged for removal of broken off roots for recently extracted tooth.
Incisional biopsy of oral tissue-soft	D7286	$381.00	$381.00	$0.00	Removing tissue for histologic evaluation. Treatment notes must include documentation and proof that biopsy was sent for evaluation.
Alveoloplasty in conjunction with extractions - four or more teeth or tooth spaces, per quadrant	D7310	$150.00	$140.00	$10.00	Substantially reshaping the bone after an extraction procedure, much more than minor smoothing of the bone. Reported per quadrant.
Alveoloplasty in conjunction with extractions - one to three teeth or tooth spaces, per quadrant	D7311	$138.00	$128.00	$10.00	Substantially reshaping the bone after an extraction procedure, much more than minor smoothing of the bone. Reported per quadrant.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Alveoloplasty not in conjunction with extractions - four or more teeth or tooth spaces, per quadrant	D7320	$150.00	$140.00	$10.00	Substantially reshaping the bone after an extraction procedure, correcting anatomical irregularities. Reported per quadrant.
Alveoloplasty not in conjunction with extractions - one to three teeth or tooth spaces, per quadrant	D7321	$138.00	$128.00	$10.00	Substantially reshaping the bone after an extraction procedure, correcting anatomical irregularities. Reported per quadrant.
Removal of torus palatinus	D7472	$308.00	$298.00	$10.00	To remove a malformation of bone for proper prosthesis fabrication.
Removal of torus mandibularis	D7473	$300.00	$290.00	$10.00	To remove a malformation of bone for proper prosthesis fabrication.
Incision & drainage of abscess - intraoral soft tissue	D7510	$193.00	$183.00	$10.00	Incision through mucosa, including periodontal origins.
Palliative (emergency) treatment of dental pain - minor procedure	D9110	$61.00	$36.00	$25.00	Emergency treatment to alleviate pain/discomfort. This code cannot be used for filing claims or writing or calling in a prescription to the pharmacy or to address situations that arise during multi-visit treatments covered by a single fee such as surgical or endodontic treatment. Report per visit, no procedure. Frequency: Limit 1

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
					time per year. Maintain documentation that specifies problem and treatment.

EXPLANATION OF RESTORATIONS		
Location	Number of Surfaces	Characteristics
Anterior	1	Placed on one of the following five surface classifications – Mesial, Distal, Incisal, Lingual, or Labial.
	2	Placed, without interruption, on two of the five surface classifications – e.g., Mesial–Lingual.
	3	Placed, without interruption, on three of the five surface classifications – e.g., Lingual–Mesial–Labial.
	4 or more	Placed, without interruption, on four or more of the five surface classifications – e.g., Mesial-Incisal-Lingual-Labial.
Posterior	1	Placed on one of the following five surface classifications – Mesial, Distal, Occlusal, Lingual, or Buccal.
	2	Placed, without interruption, on two of the five surface classifications – e.g., Mesial-Occlusal.
	3	Placed, without interruption, on three of the five surface classifications – e.g., Lingual-Occlusal-Distal.
	4 or more	Placed, without interruption, on four or more of the five surface classifications – e.g., Mesial-Occlusal-Lingual-Distal.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Halfway House Residents, Section 8.904F
Rule Number: MSB 16-07-18-A
Division / Contact / Phone: Special Financing / Taryn Jorgensen / 303-866-5634

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name:	Health Care Policy and Financing / Medical Services Board
2. Title of Rule:	MSB 16-07-18-A, Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Halfway House Residents, Section 8.904F
3. This action is an adoption of:	an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.904F, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)?	Yes
If yes, state effective date:	9/9/2016
Is rule to be made permanent? (If yes, please attach notice of hearing).	Yes

PUBLICATION INSTRUCTIONS*

Replace the current text beginning at 8.904F.1.b through the end of 8.904.F.1.b with the new text provided. This revision is effective 11/30/2016.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Halfway House Residents, Section 8.904F
Rule Number: MSB 16-07-18-A
Division / Contact / Phone: Special Financing / Taryn Jorgensen / 303-866-5634

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   New Centers for Medicare and Medicaid Services (CMS) guidance (SHO #16-007 dated April 28, 2016) on Federal Financial Participation for people residing in community correctional facilities (halfway houses) has caused Colorado Medicaid to change its policy and allow this population to qualify for Medicaid. Since the Colorado Indigent Care Program (CICP) is a safety net program, the CICP's rules must be updated to coincide with this policy change. Access to health care for this population is in the best interests of the public welfare.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☒ for the preservation of public health, safety and welfare.

   Explain:

   Emergency rule-making is imperatively necessary in order for the Colorado Indigent Care Program (CICP) to implement changes to coincide with new Medicaid policy regarding Colorado residents residing in halfway houses who have freedom of movement and association becoming eligible for Medicaid. The people within this population who do not qualify for Medicaid due to being over income or who are legal immigrants who have not been in the country for more than five years would instead be eligible for the Colorado Indigent Care Program's dicount health care services under the new rule. Access to health care for this population is a matter of public welfare. Immediate action is required to allow access to discounted health care services. Denying them access would cause unnecessary risks associated with delayed care.

3. Federal authority for the Rule, if any:

   State Health Official directive #16-007, dated April 28, 2016, Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2015);
   25.5-3-104, C.R.S. (2016)

Initial Review — Final Adoption
Proposed Effective Date **09/09/16** — Emergency Adoption **09/09/16**

DOCUMENT #01

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Halfway House Residents, Section 8.904F
Rule Number: MSB 16-07-18-A
Division / Contact / Phone: Special Financing / Taryn Jorgensen / 303-866-5634

REGULATORY ANALYSIS

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

   This rule currently specifically excludes any Colorado resident residing in a halfway house from qualifying for the Colorado Indigent Care Program (CICP) unless they have been released on parole. This rule update will simply allow these individuals to be screened for the CICP and made eligible if they meet all qualifying criteria, and will not change any processes currently in place, nor will it place any new requirements on the Department, CICP providers, CICP clients, or CICP applicants.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   This rule will allow Colorado residents residing in community corrections facilities (halfway houses) who have freedom of movement and association to be eligible for the CICP if they are found to be ineligible for Medicaid due to being over income or if they are legal immigrants who have not been in the country for at least five years. The Department and the Department of Public Safety have determined that all but one community corrections facility in Colorado (Gateway Through the Rockies in Colorado Springs) allow residents freedom of movement and association and meet the definition provided by CMS.

   It is not possible to quantify the impact of this proposed change because although the Department of Health Care Policy and Financing has determined that about 4,000 people will be affected by this change for Medicaid, the Department does not know how many of those 4,000 or on top of those 4,000 will qualify for the CICP. However, the Department does assume the number to be fewer than 4,000.

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

   The Department of Health Care Policy and Financing sees no fiscal impact of this rule change for the Department. The funds for the Colorado Indigent Care Program are appropriated, and this rule update will have no effect on the appropriation.

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

   The update to this rule will help to ensure that people who are transitioning from the prison system back into the general public will be eligible for more affordable health care through the CICP should they not qualify for Medicaid. Otherwise, this population may go without access to affordable health care until they can purchase a plan through Connect for Health Colorado during open enrollment or qualify for coverage through their employer.

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

   Since the Department of Health Care Policy and Financing does not foresee any fiscal impact of this rule change, there are not any less costly methods that were considered.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   No other methods were considered.

8.904 PROVISIONS APPLICABLE TO CLIENTS

F. Applicants Not Eligible

1. The following individuals are not eligible to receive discounted services under available CICP funds:

   a. Individuals for whom lawful presence cannot be verified.

   b. Individuals who are being held or confined involuntarily under governmental control in State or federal prisons, jails, detention facilities or other penal facilities. This includes those individuals residing in detention centers awaiting trial, at a wilderness camp, residing in half-way houses who do not have freedom of movement and association, and those persons in the custody of a law enforcement agency temporarily released for the sole purpose of receiving health care.

   c. College students whose residence is from outside Colorado or the United States that are in Colorado for the purpose of higher education. These students are not Colorado residents and cannot receive services under the CICP.

   d. Visitors from other states or countries temporarily visiting Colorado and have primary residences outside of Colorado.

2. Persons who qualify for Medicaid. However, applicants whose only Medicaid benefits are the following shall not be excluded from consideration for CICP eligibility:

   a. QMB benefits described at section 10 C.C.R. 2505-10, Section 8.111.1 (2007) of these regulations;

   b. SLMB benefits described at section 10 C.C.R. 2505-10, Section 8.122 (2007), or

   c. The QI1 benefits described at section 10 C.C.R. 2505-10, Section 8.123 (2007).

3. Individuals who are eligible for the Children's Basic Health Plan. However, individuals who are waiting to become an enrollee in the Children’s Basic Health Plan and/or have incurred charges at a participating qualified health care provider in the 90 days prior to the application date shall not be excluded from consideration for eligibility on a temporary basis. Once the applicant becomes enrolled in the Children’s Basic Health Plan, the applicant is no longer eligible to receive discounted health care services under available CICP funding.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Establishing Lawful Presence, Section 8.904C
Rule Number: MSB 16-01-20-A
Division / Contact / Phone: Special Financing / Taryn Jorgensen / 303-866-5634

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name:	Health Care Policy and Financing / Medical Services Board
2. Title of Rule:	MSB 16-01-20-A, Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Establishing Lawful Presence, Section 8.904C
3. This action is an adoption of:	an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.904, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)?	Yes
If yes, state effective date:	9/9/2016
Is rule to be made permanent? (If yes, please attach notice of hearing).	Yes

PUBLICATION INSTRUCTIONS*

Replace current text beginning at 8.904C.1 through the end of 8.904C.6 with the new text provided. This revision is effective 11/30/2016.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Establishing Lawful Presence, Section 8.904C
Rule Number: MSB 16-01-20-A
Division / Contact / Phone: Special Financing / Taryn Jorgensen / 303-866-5634

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   Department of Revenue is in the process of updating their rules for evidence of lawful presence. The Colorado Indigent Care Program must update its rules as well to coincide with the changes to Department of Revenue's rule.

2. An emergency rule-making is imperatively necessary

   ☒ to comply with state or federal law or federal regulation and/or
   ☒ for the preservation of public health, safety and welfare.

   Explain:

   Emergency rule-making is imperatively necessary in order for the Colorado Indigent Care Program to implement the Department of Revenue update of the evidence of lawful presence requirements, as required under state law. There are also a number of people who are turned away from services under the Colorado Indigent Care Program because the lawful presence documentation they have is not accepted under the current rule. This rule update broadens the scope of acceptable documentation for establishing lawful presence and will allow applicants who are lawfully present to qualify for the program, assuming they meet all other eligibility criteria.

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2015);
   24-76.5-101 et. al., C.R.S. (2015)
   25.5-3-101 through 25.5-3-111, C.R.S. (2015)

Initial Review **09/09/2016** Final Adoption
Proposed Effective Date Emergency Adoption **09/09/2016**

DOCUMENT #02

Title of Rule: Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Establishing Lawful Presence, Section 8.904C
Rule Number: MSB 16-01-20-A
Division / Contact / Phone: Special Financing / Taryn Jorgensen / 303-866-5634

REGULATORY ANALYSIS

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

   This rule currently requires Colorado Indigent Care Program (CICP) applicants 18 years of age or older to execute an affidavit concerning lawful presence status and present documentation that verifies their lawful presence in the United States in order to receive discounted health care services. This rule update will not change this process, nor will it place any new requirements on the Department, CICP providers, CICP clients, or CICP applicants.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   This rule will make it easier for some individuals to qualify for the Colorado Indigent Care Program due to the expansion of the documents allowable to verify lawful presence. It is not possible to quantify the impact of this because the Department of Health Care Policy and Financing does not currently know who these individuals are. Colorado Indigent Care Program providers determine eligibility for the program in accordance with state rules and guidance.

   This rule should not impact providers who participate in the Colorado Indigent Care Program, as the processes of verifying lawful presence documents is already in place.

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

   The Department of Health Care Policy and Financing sees no fiscal impact of this rule change for the Department. The funds for the Colorado Indigent Care Program are appropriated, and this rule update will have no effect on the appropriation.

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

The Department is required to comply with C.R.S. § 24-76.5-103, which it does through the implementation of, and necessary amendments to, this rule.

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

   The Department is required to comply with C.R.S. § 24-76.5-103, which it does through the implementation of, and necessary amendments to, this rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   No other methods were considered.

8.904 PROVISIONS APPLICABLE TO CLIENTS

A. Overview of Requirements

In order to qualify to receive discounted health care services under available CICP funds, an applicant shall satisfy the following requirements:

1. Execute an affidavit regarding citizenship status;

2. Be lawfully present in the United States;

3. Be a resident of Colorado;

4. Meet all CICP eligibility requirements as defined by state law and procedures; and

5. Furnish a social security number (SSN) or evidence that an application for a SSN has been submitted, where required by 10 C.C.R. 2505-10, Section 8.904.E (2007.)

B. Affidavit

1. Each first-time applicant, or applicant seeking to reapply, eighteen (18) years of age or older shall execute an affidavit stating:

   a. That he or she is a United States citizen, or

   b. That he or she is a legal permanent resident, or is otherwise lawfully present in the United States pursuant to federal law.

2. For an applicant who has executed an affidavit stating that he or she is lawfully present in the United States but is not a United States citizen, the provider shall, within 30 days of the application date, verify lawful presence through the Federal Systematic Alien Verification of Entitlement Program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security. Until verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence.

C. Establishing Lawful Presence

1. Each first-time applicant, or applicant seeking to reapply, eighteen (18) years of age or older shall be considered lawfully present in the country if they produce a document or waiver in accordance with 1 CCR 204-30 Rule 5 (effective August 30, 2016), which is hereby incorporated by reference. This incorporation of 1 CCR 204-30 Rule 5 excludes later amendments to, or editions of, the referenced material. Pursuant to § 24-4-103 (12.5), C.R.S., the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203. Certified copies of incorporated materials are provided at cost upon request.

2. Submission, Receipt and Retention of Documentation

   a. Lawful presence documentation may be accepted from the applicant, the applicant's spouse, parent, guardian, or authorized representative in person, by mail, or facsimile.

b. Providers shall develop procedures for handling original documents to ensure that the documents are not lost, damaged or destroyed. Providers shall develop and follow procedures for returning or mailing original documents to applicants within five business days of receipt.

c. Providers shall accept copies of an applicant's lawful presence documentation that have been verified by other CICP providers, Medical Assistance sites, county departments of social services, or any other entity designated by the Department of Health Care Policy and Financing through an agency letter, provided that the verification identifies that the copy is from an original and that the individual who reviewed the document(s) signifies such by including their name, organization, address, telephone number and signature on the copy.

d. The qualified health care provider shall retain photocopies of the affidavit and lawful presence documentation with the application.

3. Expired or absent documentation for non-U.S. citizens

a. If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local Department of Homeland Security office to obtain documentation of status.

b. In unusual circumstances involving applicants who are hospitalized or medically disabled or who can otherwise show good cause for their inability to present documentation and for whom securing such documentation would constitute undue hardship, if the applicant can provide an alien registration number, the provider may file U.S.C.I.S. Form G-845 and Supplement, along with the alien registration and a copy of any expired Department of Homeland Security document, with the local Department of Homeland Security office to verify status.

c. If an applicant presents a receipt indicating that he or she has applied to the Department of Homeland Security for a replacement document, file U.S.C.I.S. Form G-845 and Supplement with a copy of the receipt with the local Department of Homeland Security office to verify status.

4. The provider shall not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or lawful presence, the provider shall assist the individual to obtain the required evidence.

a. Examples of reasonable assistance that may be expected include, but are not limited to, providing contact information for the appropriate agencies that issue required documents; explaining the documentation requirements and how the applicant may provide the required documentation; or referring the client to other agencies or organizations which may be able to provide assistance.

b. Examples of additional assistance that shall be provided to applicants who are unable to comply with the documentation requirements due to physical or mental impairments or homelessness and who do not have a guardian or representative who can provide assistance include, but are not limited to, contacting any known family members who may have the required documentation; contacting any known health care providers who may have the required documentation; or contacting other social services agencies or organizations that are known to have provided assistance to the applicant.

c. The provider shall not be required to pay for the cost of obtaining required documentation.

d. The provider shall document its efforts of providing additional assistance to the client. Documentation of such shall be retained in the applicant's application file.

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General

STATE OF COLORADO
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Office of the Attorney General

Tracking number: 2016-00427

Opinion of the Attorney General rendered in connection with the rules adopted by the

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

on 10/14/2016

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

The above-referenced rules were submitted to this office on 10/17/2016 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 20, 2016 16:02:29

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Terminated Rulemaking

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-4

Tracking number

2016-00484

Termination date

10/18/2016

Reason for termination

The Division needs to evaluate the rules with full stakeholder input prior to the formal rulemaking process.

Terminated Rulemaking

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-5

Tracking number

2016-00486

Termination date

10/18/2016

Reason for termination

The Division needs to evaluate the rules with full stakeholder input prior to the formal rulemaking process.

Terminated Rulemaking

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-6

Tracking number

2016-00489

Termination date

10/18/2016

Reason for termination

The Division needs to evaluate the rules with full stakeholder input prior to the formal rulemaking process.

Terminated Rulemaking

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-7

Tracking number

2016-00493

Termination date

10/18/2016

Reason for termination

The Division needs to evaluate the rules with full stakeholder input prior to the formal rulemaking process.

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/19/2016

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

COLORADO
Water Quality
Control Commission
Department of Public Health & Environment

NOTICE OF PUBLIC ADMINISTRATIVE ACTION HEARING
BEFORE THE
COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

At the date, time and location listed below, the Water Quality Control Commission will hold a public Administrative Action Hearing to consider approval of the 2016 update to the water quality management plan (section 208 plan) for the North Front Range Water Quality Planning Association.

SCHEDULE OF IMPORTANT DATES:

Proposed update available	November 10, 2016	On the commission's web site at: https://www.colorado.gov/pacific/cdphe/wqcc-administrative-action-hearings
Written comments due	November 30, 2016	Additional submittal information below
Public Administrative Action Hearing	**December 12, 2016 10:30 a.m.**	**Florence Sabin Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246**

The hearing may be reconvened at such times and places as the Commission may announce.

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 update.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, CD or flash drive, or otherwise conveyed to the commission office so as to be received 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 25-8-105(3), 25-8-202(1) (h), (i) 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 19th day of October 2016 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: 2016.10.19 07:31:24 -06'00'

Nancy Horan, Operations Manager

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/19/2016

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 Interim Guidance for Implementation of Discharger Specific Variances Provisions, Commission Policy 13-1.

SCHEDULE OF IMPORTANT DATES:

Written comments due	November 30, 2016	Additional submittal information below
Public Administrative Action Hearing	**December 12, 2016 11:30 a.m.**	**Florence Sabin Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246**

The hearing may be reconvened at such times and places as the Commission may announce.

PROCEDURAL MATTERS:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations regarding the proposed extension of the expiration date.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, CD or flash drive, or otherwise conveyed to the commission office so as to be received 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) (h), (i) 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 19th day of October 2016 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: 2016.10.19 07:28:57 -06'00'

Nancy Horan, Operations Manager

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 11/09/2016

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

November 10, 2016

Accountable Care Collaborative Program Federal Authority and Incentive Payments

The Department of Health Care Policy and Financing (Department) intends to submit a State Plan Amendment to the Centers for Medicare & Medicaid Services (CMS) to make two changes concerning the Accountable Care Collaborative program. Effective November 10, 2016, the State Plan Amendment adds entity-based Primary Care Case Managers (PCCM entities) to the list of entity types with which the Department is authorized to contract and makes a technical correction to the timing of incentive payments made under the Accountable Care Collaborative program.

The Department is currently authorized to contract with individual practitioner Primary Care Case Managers (PCCM). The State Plan Amendment adds PCCM entities to the list of entity types with which the Department may contract in order to align with recently revised federal regulations. This addition does not impact the current design of the Accountable Care Collaborative program.

The State Plan Amendment makes a technical correction to the language describing the schedule for incentive payments made to PCCMs in the Accountable Care Collaborative program. The current language provides that the Department pays any earned incentive payments on a quarterly basis; however, due to changes in the metrics and activities included in the incentive payment program, a quarterly payment schedule is not always appropriate. The State Plan Amendment adds language stipulating that the Department will make incentive payments based on a schedule that has been mutually agreed upon by the Department and PCCMs. Additionally, the State Plan Amendment revises the description of the methodology used for those incentive payments that are made on a quarterly basis to more clearly articulate the current methodology; it does not make any changes to the Department's current methodology, nor does it affect the payment schedule for Key Performance Indicators, which will continue to be paid on a quarterly basis.

General Information

A link to this notice will be posted on the Department's website starting on November 10, 2016. Written comments may be addressed to:

Director, Health Programs Office
Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203

Departmental Regulatory Agendas

Department

Department of Local Affairs

2017

Regulatory Agency

COLORADO

Department of Local Affairs

Overview

The Colorado Department of Local Affairs (DOLA) submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes DOLA's Regulatory Agenda for 2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title**	**Division/ Board/ Program**	**New rule or revision?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Recommend including proposed stakeholder outreach*	**Anticipated Hearing Date**
	8 CCR 1308-1 Private Activity Bond Program Rules	Division of Housing	Repeal	SB09-041 C.R.S. 24-32-1700		Repeal obsolete rules following adoption of SB09-041.	Housing Authorities.	Dec 2016/Jan 2017
	8 CCR 1506-1 General Rules of Procedure and Abstract of Assessment Hearings	Division of Property Taxation	Revision	The State Board of Equalization has rulemaking authority in C.R.S. 39-9-103(8). The Division of Property Taxation is assisting.		General review to detect any needed changes and write appropriate updates.	County Assessors and Boards of County Commissioners.	Dec 2016

Departmental Regulatory Agendas

Department

Department of Public Safety

Colorado Department of Public Safety
2017 Regulatory Agenda

Below is a list of new rules or revisions to existing rules that the Department of Public Safety expects to propose in the next calendar year.

Rule name	8 CCR	Statutory Basis	Purpose	Schedule for Adoption	Person/Parties Potentially Affected by Rule
Colorado Bureau of Investigation					
Criminal History Records of Volunteers and Employees of Charitable Organizations	8 CCR 1507-21	24-72-305.3(2)(c)(I)	The purpose of these rules is to allow a qualified entity in the state the ability to contact an authorized agency for the purpose of determining whether a provider has been convicted of, or is under pending indictment for, a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.	To be repealed Feb. 2017	Department of Education, Department of Human Services, Department of Public Health and Environment.
Colorado State Patrol (CSP)					
Hazardous Materials	8 CCR 1507-25	42-20-108(1), (2) 42-20-203 42-20-504 42-20-508 and 42-20-108.5	The purpose of these rules is to provide guidance regarding the permitting, routing and safe transportation of hazardous and nuclear materials by motor vehicles within the State of Colorado.	Feb. 2017	Public and private sector hazardous materials transporters and responders.
Motor Carrier Safety	8 CCR 1507-1	42-4-235(4)(a)	The purpose of these rules is to support the safe operation of commercial vehicles and to adopt standards related to the regulation, inspection and operation of commercial vehicles within the State of Colorado.	Feb. 2017	Commercial motor carriers and operators, as well as governmental subdivisions, entities or legal entities based in Colorado who operate commercial vehicles in the course of their business operations.

Port of Entry	8 CCR 1507-28	42-8-104	The purpose of these rules is to set forth the size and weight limits, clearance and permitting requirements, and to define port operations as they apply to the operation of commercial motor vehicles in the State of Colorado.	Feb. 2017	Colorado Department of Transportation; Colorado Department of Revenue; the Federal Highway Authority; the Federal Motor Carrier Safety Administration (FMCSA); the Colorado Motor Carriers Association (CMCA); and commercial motor vehicle operators and businesses that operate commercial motor vehicles.

Departmental Regulatory Agendas

Department

Department of Public Health and Environment

2017

Regulatory Agenda

COLORADO
Department of Public Health & Environment

Overview

Pursuant to Colorado Revised Statute §2-7-203(4), the Colorado Department of Public Health and Environment submits the following 2017 Regulatory Agenda. Pursuant to statutory requirements concerning the Department's Regulatory Agenda, this also contains the department's 2016 Regulatory Agenda Summary and the 2016 Results of Mandatory Review of Rules.

2017 Regulatory Agenda

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
January 2017	5 CCR 1002-31 - Basic Standards for Surface Waters	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-203 and 204, C.R.S.		To remove the water + fish and fish ingestion standards for certain parameters to reflect WQCC's intent in May 2016	Point source dischargers	January 9, 2017
January 2017	5 CCR 1002-42 - Site Specific Standards for Groundwater	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202, 203 and 204, C.R.S.		To update maps in GIS format	Entities with site specific standards adopted	January 9, 2017
February 2017	6 CCR 1007-3 - Part 261 - Lewisite Hazardous Waste Listing	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302, et seq. C.R.S		Amend K901 and K902 hazardous waste listings for military munitions to add Lewisite	United States Army	February 21, 2017
February 2017	6 CCR 1007-3, Part 268 - Generator Waste Analysis Requirements for LDR Notification	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302, et seq. C.R.S.		Amend Land Disposal Restriction Waste Analysis Requirements to allow treatment determination by off-site treatment facility	Hazardous waste generators	February 21, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
February 2017	6 CCR 1007-3, Parts 261 and 267 – Requirements for Recyclable Materials	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302, et seq. C.R.S.		Amend Part 261 to clarify requirements of Part 268 are applicable to hazardous wastes that are recycled; amend Part 267 to clarify record keeping requirements related to recyclable materials	Hazardous waste generators	February 21, 2017
February 2017	6 CCR 1007-2. Part 1, Section 9 - Waste Impoundments	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109 C.R.S.		Possible deletion or modification of Section 9.1.2(B) regarding coal combustion residuals	Power Utilities	February 21, 2017
March 2017	6 CCR 1015-4 Chapter 3, Statewide Emergency Medical and Trauma Care System	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-3.5-704, C.R.S.	X	Updates following EO2 rule review including modification to the fee structure	State Emergency Medical and Trauma Services Advisory Council, Emergency Medical Service agencies, Regional Emergency Medical and Trauma Advisory Councils	March 15, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
March 2017	6 CCR 1009-1, Epidemic and Communicable Disease Control	Disease Control and Environmental Epidemiology Division/Board of Health and Executive Director	Revision	§25-1.5-102, C.R.S.	X	Update the reportable conditions, implement SB 16-146 and updates following EO2 rule review of 6 CCR 1009-9	Hospitals, local public health, health care providers, Colorado HIV/AIDS Prevention Program Advisory Committee, community based organizations serving persons at risk or living with of HIV/AIDS, local public /private health agencies, citizen groups, and individual citizens	March 15, 2017
March 2017	6 CCR 1009-9, Reporting, Prevention and Control of AIDS, HIV-related illness and HIV Infection	Disease Control and Environmental Epidemiology Division/Board of Health	Repeal	§25-4-402, 404, and 405, C.R.S.	X	Updates following EO2 rule review and to implement SB 16-146	Colorado HIV/AIDS Prevention Program Advisory Committee, community based organizations serving persons at risk or living with of HIV/AIDS, local public /private health agencies, citizen groups, and individual citizens	March 15, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
March 2017	6 CCR 1009-10, Colorado HIV and AIDS Prevention Grant Program	Disease Control and Environmental Epidemiology Division/Board of Health	Revision	§25-4-1404, C.R.S.		Updates to align with current statute, SB 16-146	Colorado HIV/AIDS Prevention Program Advisory Committee, community based organizations serving persons at risk or living with of HIV/AIDS, local public /private health agencies, citizen groups, and individual citizens	March 15, 2017
March 2017	5 CCR 1001-6 - Regulation Number 4 - Sale and Installation of Wood-Burning Appliances and the Use of Certain Wood-Burning Appliances during High Pollution Days	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-7-105 through -110 C.R.S.		Revise requirements for wood stove certification that are consistent with federal Standards of Performance for New Residential Wood Heaters	Owners of residential wood heaters, trade associations, manufacturers and distributors of residential wood heaters	March 16, 2017
April 2017	5 CCR 1002-43, On-Site Wastewater Treatment System Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-10-101, et. seq, C.R.S.		Continue aligning the regulation with accepted industry standards on wastewater treatment.	The 54 local agencies that implement the OWTS regulations and manufacturers and practitioners in the OWTS industry.`	April 10, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
April 2017	6 CCR 1009-2, Infant Immunization and Immunization of Students Attending School	Disease Control and Environmental Epidemiology Division/Board of Health	Revision	§25-4-903 and 904, C.R.S.		Annual ACIP update and alignment with SB 16-158 and HB 16-1425	Hospitals, local public health, health care providers, school administrators and health professionals	April 19, 2017
April 2017	6 CCR 1015-3 Chapter 1, Emergency Medical Responder Registration Program	Health Facilities and Emergency Medical Services Division/Board of Health	New rule	§25-3.5-308, C.R.S.		New rule to implement HB 16-1034	State Emergency Medical and Trauma Services Advisory Council, Emergency Medical Service agencies, Regional Emergency Medical and Trauma Advisory Councils, Colorado Department of Public Safety Fire and Safety Division, Fire and Safety agencies	April 19, 2017
April 2017	6 CCR 1015-3 Chapter 5, Air Ambulances	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-3.5-307, C.R.S.	X	Updates following EO2 rule review and to implement HB 16-1280	State Emergency Medical and Trauma Services Advisory Council, Regional Emergency Medical and Trauma Advisory Councils, the Air Ambulance Community	April 19, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
April 2017	6 CCR 1011-1 Chapter 24, Medication Administration Regulation	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-1.5-103, and §25-3-103, C.R.S.	X	Updates following EO2 rule review and to implement HB 16-1424	Assisted living facilities, community training entities and assisted living facility consumers	April 19, 2017
May 2017	5 CCR 1002-81 - Animal Feeding Operations Control Regulation	Division of Environmental Health and Sustainability/ Water Quality Control Commission	Revision	§25-8-205, C.R.S.	X	Updates following EO2 rule review	AFOs and CAFOs, except those defined as housed commercial swine feeding operations in section 61.2 of the Colorado Discharge Permit System Regulations	May 8, 2017
May 2017	5 CCR 1002-21 - Water Quality Control Commission Procedural Rules	Water Quality Control Commission	Revision	§25-8-401(2) C.R.S	X	Remove requirement that commissioners submit disclosure statements to Secretary of State's office.	Water Quality Control Commissioners	May 8, 2017
May 2017	6 CCR 1007-1 Part 4, Radiation Control: Standards for Protection Against Radiation	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1.5-101(1)(k) and (l), §25-11-103 and 104, and §25-1-108, C.R.S.	X	Technical corrections required for compatibility with federal rule and updates following EO2 rule review	Radioactive Material Licensees	May 17, 2017
May 2017	6 CCR 1007-1 Part 3, Radiation Control: Licensing of Radioactive Material	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1.5-101(1)(k) and (l), §25-11-103 and 104, and §25-1-108, C.R.S.		Technical corrections required for compatibility with federal rule	Radioactive Material Licensees	May 17, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
May 2017	6 CCR 1007-1 Part 22, Radiation Control: Physical Protection of Category 1 and Category 2 Radioactive Material	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1.5-101(1)(k) and (l), §25-11-103 and 104, and §25-1-108, C.R.S.	X	Technical corrections required for compatibility with federal rule and updates following EO2 rule review	Radioactive Material Licensees	May 17, 2017
May 2017	5 CCR 1007-3, Part 6 - Solid and Hazardous Waste Commission Fees	Solid and Hazardous Waste Commission	Revision	§25-15-314, C.R.S.		Amend SHWC fee to fund operation of the commission for fiscal year 2017-2018	Treatment, storage, and disposal facilities, generators of hazardous waste, and transporters of hazardous waste	May 16, 2017
May 2017	6 CCR 1007-2, Part 1 Section 1 - Administrative Information	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.		Modify Section 1.8.6 - financial assurance utilizing a trust fund	Permitted solid waste facilities utilizing a trust fund for their financial assurance	May 16, 2017
May 2017	6 CCR 1007-2, Part 1, Section 8 - Recycling and Beneficial Use	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.		Modify Section 8.5.5 - General Site Requirements for industrial recycling operations	Solid waste recyclers	May 16, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
May 2017	5 CCR 1001-8 - Regulation Number 6 - Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103; §25-7-102, -105 to -109, and -114, C.R.S.		Incorporate by reference new and amended federal New Source Performance Standards into the commission's regulations	All owners and operators of industrial equipment subject to federal New Source Performance Standards, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	May 18, 2017
May 2017	5 CCR 1001-10 - Regulation Number 8 - Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103; §25-7-105 and -109 C.R.S.		Incorporate by reference new and amended federal National Emissions Standards for Hazardous Air Pollutants into the Commission's regulations	All owners and operators of industrial equipment subject to these federal regulations, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	May 18, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
June 2017	5 CCR 1002-34 - Classifications and Standards for the San Juan River and Dolores River Basins; and 1002-35 - Classifications and Standards for the Gunnison and Lower Dolores River Basins	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-203 and 204, C.R.S.	X	Update classifications and standards in these river basins.	Point source dischargers, municipalities, environmental organizations, anglers, recreationalists	June 12, 2017
July 2017	6 CCR 1007-1 Part 1, Radiation Control: General Provisions	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1-108, §25-1.5-101(1)(k) and (1)(l), and §25-11-104 C.R.S.	X	Updates required for compatibility with federal rule changes in 10 CFR Part 71 and 49 CFR (associated with Part 17 changes) and updates following EO2 rule review	Radioactive materials licensees who ship, prepare, or transport radioactive materials	July 19, 2017
July 2017	6 CCR 1007-1 Part 17, Radiation Control: Transportation of Radioactive Material	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1-108, §25-1.5-101(1)(k) and (1)(l), and §25-11-104 C.R.S.	X	Updates required for compatibility with federal rule changes in 10 CFR Part 71 and 49 CFR and updates following EO2 rule review	Radioactive materials licensees who ship, prepare, or transport radioactive materials	July 19, 2017
July 2017	6 CCR 1011-1, Chapter 22, Birth Centers	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-1.5-103, §25-3-101 and §25-3-103, C.R.S.	X	Updates following EO2 rule review	Birth Centers and expecting parents	July 19, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
August 2017	5 CCR 1002-31 - Basic Standards for Surface Waters; 5 CCR 1002-33 – Upper Colorado River Basin Standards	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-203 and 204, C.R.S.		Petition to revise molybdenum standards	Climax Molybdenum, entities and water users downstream from Climax or other dischargers of molybdenum	August 7, 2017
August 2017	5 CCR 1002-11 - Colorado Primary Drinking Water Regulations	Water Quality Control Division/Water Quality Control Commission	Revision	§25-1.5-101; §25-1.5-Part 2; §25-1-109; §25-1-114; 25-1-114.5, C.R.S.		Updates to address additional revisions to revised total coliform rule to maintain primacy	Public water systems	August 7, 2017
Sept. 2017	6 CCR 1015-3 Chapter 3, Emergency Medical Services Data, Information Collection and Record Keeping	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-3.5-308, C.R.S.	X	Alignment with national standards and updates following EO2 rule review	Emergency Medical Services agencies	September 20, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
Sept. 2017	6 CCR 1011-1 Chapters 2, 4, and 20, General Licensure Standards, General Hospitals, Ambulatory Surgical Centers and Ambulatory Surgical Centers with a Convalescent Center	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-1.5-103 and 108, and §25-3-103 C.R.S.		Technical edits and fee adjustments or eliminations	Licensed healthcare entities and their consumers	September 20, 2017
Sept. 2017	5 CCR 1005-2, Lab Testing for Alcohol & Other Drugs	Laboratory Services Division/Board of Health	Revision	§42-4-1304, C.R.S.	X	Alignment with current practice and updates following EO2 rule review	Law enforcement, Department of Revenue, District Attorneys' Counsel, Defense Bar	September 20, 2017
October 2017	6 CCR 1011-3, Standards for Community Integrated Health Care Service Agencies	Health Facilities and Emergency Medical Services Division/Board of Health and Executive Director	New Rule	§25-3.5-103, §25-3.5-203.5, §25-3.5-206, §25-3.5-1302, and §25-3.5-1303, C.R.S.		New rule to implement SB 16-069	Home Care Agencies, Emergency Medical Services providers, Fire and Safety agencies, rural community providers and consumers	October 18, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
October 2017	6 CCR 1015-3, Emergency Medical Services, Chapter 1, Emergency Medical Services Education and Certification and Chapter 2, Emergency Medical Services Practice and Medical Director Oversight	Health Facilities and Emergency Medical Services Division/Board of Health and Executive Director	Revision	§25-3.5-206, C.R.S.		Updates to align with current practice and creates a new scope of practice for community paramedics and updates to incorporate SB 16-069	Emergency Medical Services personnel and agencies	October 18, 2017
October 2017	5 CCR 1002-85 - Nutrients Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-205, C.R.S.	X	Updates to consider phase 2 implementation of nutrients management and monitoring requirements	Point source dischargers, anglers, environmental groups	October 10, 2017
Nov. 2017	6 CCR 1010-2, Retail Food Establishments	Division of Environmental Health and Sustainability/ Board of Health	Revision	§25-4-1604(1), 1606, and 1609, C.R.S.	X	Updates following EO2 rule review, alignment with national standards and alignment with HB 16-1401.	Retail Food Establishments, local public health, consumers	November 15, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
Nov. 2017	6 CCR 1007-1 Part 2, Radiation Control: Registration of Radiation Machines, Facilities, and Services	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1-108, §25-1.5-101(1)(k) and (1)(l), and §25-11-104 C.R.S.	X	Updates necessary for consistency with concurrent Part 6 changes	Registered medical facilities using x-ray machines	November 15, 2017
Nov. 2017	6 CCR 1007-1 Part 6, Radiation Control: X-Rays in the Healing Arts	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1-108, §25-1.5-101(1)(k) and (1)(l), and §25-11-104 C.R.S.	X	Updates consistent w/ Suggested State Regulations Part F, stakeholder and program requested needs/updates and updates following EO2 rule review	Registered medical facilities using x-ray machines	November 15, 2017
Nov. 2017	6 CCR 1009-1, Epidemic and Communicable Disease Control	Disease Control and Environmental Epidemiology Division/Board of Health	Revision	§25-1.5-102, §25-1-122, C.R.S.		Update the reportable conditions to include poison report to address emerging public health and environmental health conditions	Hospitals, local public health, health care providers	November 15, 2017
Nov. 2017	5 CCR 1003-7 - Beneficial Use of Water Treatment Sludge	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Repeal	§30-20-109, C.R.S.	X	Repeal of obsolete regulation	Users of water treatment sludges	November 21, 2017

Schedule *(Month, Year)*	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? *(X if yes)*	Purpose	Stakeholders	Anticipated Hearing Date
Nov. 2017	6 CCR 1007-2, Part 1, Sections 8 & 12 - Beneficial Use of Water Treatment Sludge	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.	X	Make conforming changes due to repeal of 5 CCR 1003-7	Users of water treatment sludges	November 21, 2017
Nov. 2017	6 CCR 1007-2, Part 1, Section 10 - Waste Tires	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-1401, C.R.S.		Set the End User Rebate amount for CY 2018	Waste tire end users	November 21, 2017
Nov. 2017	6 CCR 1007-3, Parts 260, 261, 262, 263, 264, 265, 268, 273, 279 and 100 - Generator Rule	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-301, et seq., C.R.S		Federal RCRA Rule to reorganize, consolidate, and clarify requirements for Hazardous Waste Generators	Hazardous waste generators	November 21, 2017
Dec. 2017	5 CCR 1002-32 through 38 - Classifications and Standards in Basin Regulations	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-203 and 204, C.R.S.		Review temporary modifications expiring in the next two years and consideration of proposed new temporary modifications	Entities with a temporary modification expiring in the next two years	December 11, 2017

2016

Regulatory Agenda Summary

COLORADO
Department of Public Health & Environment

2016 Regulatory Agenda Summary

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-5, Part A - Regulation Number 3, Greenhouse Gas Permitting	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-7-105(1)(a), (c); §25-7-201 – 206; §25-7-210; §25-7-301 -302, C.R.S.	Revise the definition of "subject to regulation" related to the permitting of greenhouse gases	January 21, 2016	Industrial sources and interested parties	Adopted January 21, 2016
6 CCR 1007-3, Parts 260 & 261 - Definition of a solid waste	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-301, et seq., C.R.S	To update the hazardous waste definition of a solid waste based upon updated EPA definition	February 16, 2016	facilities that generate or recycle hazardous secondary materials, NAICS Code 32 and 33 manufacturers	Adopted February 16, 2016
6 CCR 1007-3, Part 100 - Corrections to Part 100.10	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-301, et seq., C.R.S	Corrections to Part 100.10	February 16, 2016	Hazardous waste permit holders	Adopted February 16, 2016
6 CCR 1007-3, Part 261 - Corrections to Part 261.5	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-301, et seq., C.R.S	Corrections to Part 261.5	February 16, 2016	Conditionally exempt small quantity generators of hazardous waste	Adopted February 16, 2016
5 CCR 1001-12 - Regulation 10, Transportation Conformity	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-7-105(1)(a)(I), C.R.S.	Revise the definition of "routine conformity determination"	February 18, 2016	Transportation planning organizations, interested parties	Adopted February 18, 2016

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1011-1 Chapter 26 - Home Care Agency licensing	Health Facilities and Emergency Medical Services/ Board of Health	Revision	§25-1.5-103, §25-1.5-108, §25-3-103, C.R.S.	Service agency conflicts and implementation of HB 14-1360	March 16, 2016	Licensed Home Care Agencies and their consumers	Adopted March 16, 2016
6 CCR 1011-1, Chapter V; conforming amendment to Chapter II - Long term care changes	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-1.5-103, §25-1.5-108, §25-3-103, C.R.S.	Modify definitions for licensed only facilities, amend drug disposal requirements, remove obsolete language and align with federal requirements	March 16, 2016	Long term care facilities and their consumers, Health Care Policy and Financing	Adopted March 16, 2016
5 CCR 1002-33 - Grand Lake clarity standard	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-203, 204, and 205, C.R.S.	Consider revisions to the clarity standards for Grand Lake	April 11, 2016	Northern Colorado Water Conservancy District, Town of Grand Lake, Grand County, Bureau of Reclamation, U.S. Forest Service, Three Lakes Watershed Association, Western Area Power Administration, Midwest Electric Consumers, Colorado River District, USGS, Tri-State Generation and Transmission	Adopted with preliminary final action April 11, 2016; final action May 9, 2016
5 CCR 1002-41 - Basic Standards for Groundwater	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202, 203, and 204, C.R.S.	Update statewide groundwater standards	April 11, 2016	SB 181 implementing agencies; dischargers to groundwater	Adopted with preliminary final action April 11, 2016; final action May 9, 2016

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1009-3 - Central Cancer Registry	Center for Health and Environmental Data/Board of Health	Revision	§25-1.5-101(1)(q), §25-1-122, C.R.S.	Updates following EO2 rule review	April 20, 2016	Patients and their families; hospitals, diagnostic and treatment clinics, laboratories, physicians	Adopted April 20, 2016
6 CCR 1010-20 - Artificial Tanning Devices	Division of Environmental Health and Sustainability/ Board of Health	Revision	§25-5-1006, C.R.S.	Updates following EO2 rule review	April 20, 2016	Tanning facilities and their consumers	Adopted April 20, 2016
6 CCR 1009-8 - Reporting of Selected Causes of Morbidity and Mortality	Prevention Services Division/Board of Health	Revision	§25-1.5-102, C.R.S.	Updates following EO2 rule review	April 20, 2016	This rule was tailored to apply to maternal morbidity and mortality.	Adopted April 20, 2016
6 CCR 1007-3, Part 6 - Annual Commission Fee	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-314, C.R.S.	Amend SHWC fee to fund operation of the Commission for Fiscal Year 2016-17	May 17, 2016	Treatment, storage, and disposal facilities, generators of hazardous waste, and transporters of hazardous waste	Adopted May 17, 2016
6 CCR 1007-3, Part 100 and Part 262 - Hazardous Waste Program Fees	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302, et seq., C.R.S.	Fee increase to sustain hazardous waste program	May 17, 2016	Treatment, storage, and disposal facilities, generators of hazardous waste	Withdrawn

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1010-23 - Colorado Household Medication Take-Back Program	Division of Environmental Health and Sustainability/ Solid and Hazardous Waste Commission	New Rule	§25-15-328, C.R.S.	Adopt new regulations governing the Household Medication Take-Back Program	May 17, 2016	Law enforcement agencies, pharmacies, health care providers, poison control centers, drug abuse prevention and treatment agencies, waste disposal contractors, pharmaceutical manufacturers, water/wastewater utilities, schools	Adopted May 17, 2016
6 CCR 1007-3, Part 99 - Notification Requirements	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-301, et seq., C.R.S.	Update public notification requirements	May 17, 2016	permitted entities	Withdrawn
6 CCR 1009-2 - Infant Immunization and Immunization of Students Attending School	Disease Control & Environmental Epidemiology Division/Board of Health	Revision	§25-4-903, §25-4-904, C.R.S.	Annual ACIP update and technical and clarifying edits	May 18, 2016	Hospitals, local public health, health care providers, school administrators and health professionals	Adopted May 18, 2016

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-8 - Regulation Number 6 - Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103; §25-7-102, -105 to -109, and -114, C.R.S.	Incorporate by reference new and amended federal New Source Performance Standards into the commission's regulations	May 19, 2016	All owners and operators of industrial equipment subject to federal New Source Performance Standards, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	Withdrawn
5 CCR 1001-10 - Regulation Number 8 - Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103; §25-7-105 and -109, C.R.S.	Incorporate by reference new and amended federal National Emissions Standards for Hazardous Air Pollutants into the commission's regulations	May 19, 2016	All owners and operators of industrial equipment subject to these federal regulations, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	Withdrawn

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1002-31 - Basic Standards for Surface Water	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-203 and 204, C.R.S.	Update Basic Standards; including revisions to the temperature standards	June 13, 2016	City and town government; energy companies; mining companies; water and sanitation districts; water quality planning agencies; watershed associations; environmental groups; federal agencies - USFWS, EPA; Colorado Parks and Wildlife	Adopted with preliminary final action June 15, 2016; final action August 8, 2016
6 CCR 1007-1, Part 16 - Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1-108, §25-1.5-101(1)(k), §25-1.5-101(1)(l), §25-11-104 C.R.S.	Technical update(s) required for NRC compatibility and alignment with current practice	July 20, 2016	Radioactive materials licensees performing well logging (~15 entities)	Adopted July 20, 2016
6 CCR 1007-1, Part 19 - Licenses and Radiation Safety Requirements For Irradiators	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1-108, §25-1.5-101(1)(k), §25-1.5-101(1)(l), §25-11-104 C.R.S.	Technical update(s) required for NRC compatibility and alignment with current practice	July 20, 2016	Radioactive materials licensees using irradiators (~3 entities); Universities	Adopted July 20, 2016
6 CCR 1010-15 - Production and Sale of Tier Two Foods	Division of Environmental Health and Sustainability/ Board of Health	NA	§25-14-1614, C.R.S.	Standards regarding the production and sale of pickled vegetables with an equilibrium pH value of 4.6 or lower, HB 15-1102	July 20, 2016	Tier Two food producers, food safety advocates, local public health agencies and consumers	Withdrawn

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1011-1, Chapter 17 - Rehabilitative Nursing Facility	Health Facilities and Emergency Medical Services Division/Board of Health	Repeal	§25-1.5-103, §25-3-103, C.R.S.	Repeal obsolete rule following EO2 rule review	July 20, 2016	Licensed facilities and their consumers	Adopted July 20, 2016
6 CCR 1015-3, Chapter 3 - Emergency Medical Services Data, Information Collection and Record Keeping	Health Facilities and Emergency Medical Services Division/Board of Health	NA	§25-3.5-308, C.R.S.	Alignment with national standards and updates following EO2 rule review	July 20, 2016	Emergency Medical Services agencies	Ongoing (postponed until September 2017)
6 CCR 1007-2, Part 1, New Section 19 - Coal Combustion Residuals	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	New Rule	§30-20-101.5, C.R.S.	Disposal and management of coal combustion residuals	August 16, 2016	New and existing solid waste landfills and impoundments	Withdrawn (indefinitely postponed)
5 CCR 1002-11 - Drinking Water Regulations	Water Quality Control Division/Water Quality Control Commission	NA	§25-1.5 - 101 and Part 2; §25-1-109, 114, 114.1, and §25-8-202, C.R.S.	Revisions to revised total coliform rule in response to EPA review	August 8, 2016	Public drinking water systems; general public	Ongoing (postponed until August 2017)
5 CCR 1002-42 - Site Specific Standards for Groundwater	Water Quality Control Division/Water Quality Control Commission	NA	§25-8-202, 203, and 204, C.R.S.	Consider relaxing the TDS standard at Cherokee Metro District's discharge location	August 8, 2016	Cherokee Metropolitan District, Upper Black Squirrel Creek Ground Water Management District, other metropolitan districts and water users, including agricultural users, in the area	Rulemaking hearing was held August 8, 2016; commission denied the proposal to relax the TDS standard in the Upper Black Squirrel Basin

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1005-4 - Newborn Screening	Laboratory Services Division/Board of Health	NA	§25-4-802, §25-3-803, §25-4-1004, §25-4-1004.5, C.R.S.	Revisions to align with current practice and improve processes	August 17, 2016	Entities performing newborn screening, perinatal care providers, pediatricians, midwives, and their consumers	Withdrawn
5 CCR 1005-2 - Lab Testing for Alcohol & Other Drugs	Laboratory Services Division/Board of Health	NA	§42-4-1304, C.R.S.	Updates to align with current practice	August 17, 2016	Law enforcement, Department of Revenue, District Attorneys' Counsel, Defense Bar	Ongoing (postponed until September 2017)
5 CCR 1001-8 - Regulation Number 6 - Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103; §25-7-102, -105 to -109, and -114, C.R.S.	Incorporate by reference new and amended federal New Source Performance Standards into the commission's regulations	August 18, 2016	All owners and operators of industrial equipment subject to federal New Source Performance Standards, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	Adopted August 18, 2016
5 CCR 1001-10 - Regulation Number 8 - Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103; 25-7-105 and -109, C.R.S.	Incorporate by reference new and amended federal National Emissions Standards for Hazardous Air Pollutants into the commission's regulations	August 18, 2016	All owners and operators of industrial equipment subject to these federal regulations, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	Adopted August 18, 2016

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1015-5 - Tobacco Education, Prevention and Cessation Grant Program	Prevention Services Division/Board of Health	Revision	§25-3.5-804 (2), C.R.S.	Updates following EO2 rule review	September 21, 2016	Grantees, Local Public Health Agencies, Community- based providers, prevention advocates, the Tobacco Review Committee	Adopted July 20, 2016
6 CCR 1015-1 - Emergency Medical Services Account	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-3.5-604, C.R.S.	Updates following EO2 rule review	September 21, 2016	Local emergency medical and trauma service providers, the State Emergency Medical and Trauma Advisory Council	Adopted September 21, 2016
6 CCR 1015-3, Chapter 2 – EMS Practice and Medical Director Oversight	Health Facilities and Emergency Medical Services Division/ Executive Director	NA	§25-3.5-206, C.R.S.	Emergency Medical Services Practice and Medical Director Oversight	November 14, 2016	Emergency Medical Services personnel and agencies	Ongoing (postponed until October 2017)
6 CCR 1007-2, Part 1, Section 14 - Composting	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-108(2), C.R.S.	Simplify the compost class structure and regulations	November 15, 2016	Solid waste landfill and compost facility owners, county and municipal governments	Ongoing

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-2, Part 1, Section 10 - Waste tire facilities, haulers and end user fund	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-1401, C.R.S.	Set the annual End User Fund rebate amount	November 15, 2016	Waste tire processors, tire monofills, end users, local governments, waste tire generators and haulers, tire manufacturers, landfills	Ongoing
5 CCR 1003-7 - Beneficial Use of Water Treatment Sludge	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Repeal	§25-15-316, C.R.S.	Repeal of obsolete regulation	November 15, 2016	Beneficial users of water treatment sludges	Ongoing (postponed until November 2017)
6 CCR 1007-2, Part 1, Sections 8 and 12 - Beneficial Use of Water Treatment Sludge	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-316, C.R.S.	Make conforming changes with repeal of 5 CCR 1003-7	November 15, 2016	Beneficial users of water treatment sludges	Ongoing (postponed until November 2017)

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1011-1 Chapters 2, 4, 5, 8-10, 15, 18-22, 26 - Licensure Standards, General Hospitals, Long Term Care Facilities, Facilities for Persons with Developmental Disabilities, Community Clinics and Community Clinics and Emergency Centers, Rehabilitation Centers, Dialysis Treatment Clinics, Rehabilitative Nursing Facilities, Psychiatric Hospitals, Hospital Units, Ambulatory Surgical Centers and Ambulatory Surgical Centers with a Convalescent Center, Hospices, Birth Centers, Home Care Agencies	Health Facilities and Emergency Medical Services Division/Board of Health	NA	§25-1.5-103, §25-1.5-108, §25-3-103 C.R.S.	Technical edits, fee modifications and fiscal practice changes.	November 16, 2016	Licensed healthcare entities and their consumers	Withdrawn in part; Ongoing in part (postponed until September 2017)

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-1, Part 6 - Radiation Control: X-Rays in the Healing Arts	Hazardous Materials and Waste Management Division/Board of Health	NA	§25-1-108, §25-1.5-101(1)(k), §25-1.5-101(1)(l), §25-11-104 C.R.S.	Updates consistent w/ Suggested State Regulations and stakeholder and program requested needs/updates	November 16, 2016	Registered medical facilities using x-ray machines	Ongoing (postponed until November 2017)
5 CCR 1003-2 - Operator Certification Requirements	Water and Wastewater Facility Operators Certification Board	Revision	§25-9-101 through 110, C.R.S.	Updates to match statutory exemption language, address requirements for training unit renewals, eliminate adjudicatory hearing requirement for reclassification of a facility, other modifications for consistency and clarification	November 29, 2016	Water and wastewater treatment operators and facilities	Ongoing
5 CCR 1002-32 through 38 - Classifications and Numeric Standards for River Basins Statewide	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202, 203, and 204, C.R.S.	Annual review of temporary modifications	December 12, 2016	City and town government; energy companies; mining companies; water and sanitation districts; water quality planning agencies; watershed associations; environmental groups; federal agencies - USFWS, EPA; Colorado Parks and Wildlife	Ongoing

Rulemakings that did not appear on the original 2016 Regulatory Agenda

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status
5 CCR 1002-32 through 38 - Water quality standards tables	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(i); 25-8-401(2) C.R.S.	Update format of water quality standards tables	January 11, 2016	All entities who use water quality standards tables	Adopted January 11, 2016
6 CCR 1007-3, Part 100.506(c) - Hazardous Waste Public Notice Requirements	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-301, et seq. C.R.S.	To update forms of notification to include the department/division website and Facebook – added to create efficiency for the community	February 16, 2016	Permitted entities, general public	Adopted February 16, 2016
6 CCR 1015-7 - Loan Repayment Program for Dental Professionals	Prevention Services Division/Board of Health	Revision	§25-23-103 & 105, C.R.S.	Revisions following EO2 rule review – added to create efficiency for the community	March 16, 2016	University of Colorado School of Dental Medicine, Colorado Dental Association, Colorado Community Health Network, dental professionals	Adopted March 16, 2016
6 CCR 1016-3 - International Medical Graduates Seeking State Support of an Immigration Petition: Eligibility Application Process, Fees and Selection Procedures	Prevention Services Division/Board of Health	Revision	§25-1.5-404, CRS	Revisions following EO2 rule review - added to create efficiency for the community	March 16, 2016	Rural Health Centers, health facility employers, loan recipients, students of health professional schools	Adopted March 16, 2016

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5 CCR 1005-4 - Newborn Screening	Laboratory Services Division/Board of Health	Revision	§25-4-802 & 803, 25-4-1004, 1004.5 C.R.S.	Remove Pompe Disease from the newborn screening panel – new data became available that required rulemaking	April 20, 2016	Entities performing newborn screening, perinatal care providers, pediatricians, midwives, and their consumers	Adopted April 20, 2016
6 CCR 1014-4 - Colorado Health Care Professional Credentials Application	Health Care Credentials Application Review Committee/Board of Health	Revision	§25-1-108.7 C.R.S.	Update application to provide clarity and additional information to applicants and credentialing entities – added to timely act on stakeholder request	July 20, 2016	Credentialing entities, health care professionals	Adopted July 20, 2016
5 CCR 1001-15 - Regulation Number 12 - Reduction of Diesel Vehicle Emissions	Air Pollution Control Division/Air Quality Control Commission	Revision	§42-4-406; §42-2-414(2)(c); §42-2-412(2)(a); §42-2-403(1) C.R.S.	Increase new vehicle model year exemptions for heavy duty trucks of 26,000 lbs Gross Vehicle Weight Rating of model year 2014 and newer; to establish an on-road enforcement opacity standard with no time limit, and to automate data and secure document handling that will expedite online registration renewal for diesel owners	August 18, 2016 due to new legislation	All owners and operators of diesel vehicles in the Front Range region, local and State agencies, industrial trade associations, citizen and environmental groups	Adopted August 18, 2016 due to new legislation

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status
5 CCR 1001-5 - Regulation Number 3 - Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-7-105(1), -106(1)(c), -109(1)-(3) C.R.S.	Amend nonattainment new source review thresholds to be consistent with federal definitions - as a result of comprehensive stakeholder process in 2016	October 12, 2016	All owners and operators of major industrial sources potentially subject to nonattainment new source review permitting, industrial trade associations, citizen and environmental groups	Adopted October 12, 2016
6 CCR 1007-1, Part 21 - Radon Mitigation Program	Hazardous Materials Waste Management Division/Board of Health	New Rule- required to implement HB 16-1141	§25-11-114, C.R.S. et seq.	Implement HB 16-1141 and establish a radon mitigation program by the January 1, 2017 date delineated in statute – new legislative mandate or federal mandate required rulemaking	October 19, 2016	LPHAs, Homeowners, Businesses providing radon mitigation.	Adopted October 19, 2016
6 CCR 1011-1, Chapter 26 - Home Care Agency licensing	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-1.5-103 & 108, 25-3-103, C.R.S.	Revision to clarify and better align with statute – added to timely respond to feedback from the Office of Legislative Legal Services	November 16, 2016	Licensed Home Care Agencies and their consumers	Ongoing
6 CCR 1010-3 and 6 CCR 1010-4 - Manufactured Milk and Dairy Products and Colorado Grade A Pasteurized Milk and Fluid Milk Products	Division of Environmental Health and Sustainability/Board of Health	Revision	§§25-1.5-104, 25-5.5-103, 25-5.5-109(2)(5)(6), 25-5.5-205, 25-5.5-309, 25-5.5-310 C.R.S.	Revisions following EO2 rule review - added to create efficiency for the community	November 16, 2016	Dairy farmers, dairy plants and consumers	Ongoing

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status
5 CCR 1001-14 - Air Quality Standards, Designations and Emission Budgets	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-7-105(1), -102, -109 C.R.S.	Revise motor vehicle emission budgets for ozone used in transportation conformity determinations - as a result of comprehensive stakeholder process in 2016	November 17, 2016 as a result of comprehensive stakeholder process	Transportation planning organizations, interested parties	Ongoing
5 CCR 1001-9- Regulation Number 7 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-7-105(1)(a)-(b), -106(1)(c)2, -106(2), -109(1)(a), -301 C.R.S.	Incorporate State-only requirements for combustion device auto-igniters and condensate storage tank inspection requirements into the federally-enforceable SIP; establish Reasonably Available Control Technology (RACT) requirements for both printing operations and general solvent use; establish RACT emission limits for specified major sources; establish RACT for combustion sources; and establish monitoring, recordkeeping and reporting requirements for glycol natural gas dehydrators and natural gas processing plants to address EPA concerns - as a result of comprehensive stakeholder process in 2016	November 17, 2016	All owners and operators of commercial and industrial equipment in the Front Range region, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	Ongoing

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status
5 CCR 1001-13 - Regulation Number 11 - Motor Vehicles Emissions Inspection Program	Air Pollution Control Division/Air Quality Control Commission	Revision	§42-301 through -306 C.R.S.	Incorporate State-only areas of the AIR Program in Larimer and Weld Counties into the Ozone State Implementation Plan - as a result of comprehensive stakeholder process in 2016	November 17, 2016	All owners and operators of gasoline vehicles in the Front Range region, local and State agencies, trade associations, citizen and environmental groups	Ongoing
5 CCR 1002-63 - Pretreatment Regulations	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-205(1)(b), C.R.S.	Update date of federal regulations incorporated by reference; indicate that state regulations will be implemented in a manner complimentary to federal regulations.	December 12, 2016	Facilities with a pretreatment program.	Ongoing
5 CCR 1001-5 - Regulation Number 3 - Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-7-105(1), -102, -109 C.R.S.	Revisions to Colorado's Regional Haze State Implementation Plan and Regulation Number 3, Part F, Section VI., related to the regional haze requirements for Tri-State Generation and Transmission Association's Craig Unit 1 and Nucla Station - as a result of confidential litigation settlement	December 15, 2016	All owners and operators of Tri-State's Craig Unit 1 plant and Tri-State's Nucla plant, local and State agencies, industrial trade associations, citizen and environmental groups, and individual citizens	Ongoing

2016

Results of Mandatory Review of Rules

COLORADO
Department of Public Health & Environment

2016 Results of Mandatory Review of Rules

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1010-3 - Manufactured Milk and Dairy Products	Division of Environmental Health and Sustainability	§ 25-1.5-104; 25-5.5-101 through §25-5.5-312, C.R.S.	January 2016	Y	Y	N	Pending- hearing scheduled for November 16, 2016
6 CCR 1014-8 - Procedural Rules for State Board of Health	Board of Health	§25-1-108(1)c) (I), C.R.S.	January 2016	N	N	N	NA
5 CCR 1002-63 - Pretreatment Regulations	Water Quality Control Division	§25-8-205(1)(b), C.R.S.	January 2016	Y	N	N	Pending - hearing scheduled for December 12, 2016
6 CCR 1016-3 - International Medical Graduates Seeking State Support of Immigration and Petition: Eligibility Application Process, Fees and Selection	Prevention Services Division	§25-1.5-404, C.R.S.	February 2016	Y	Y	N	Adopted March 16, 2016

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1015-7 - Loan Repayment Program for Dental Professionals	Prevention Services Division	§25-23-103, §25-23-105, C.R.S.	February 2016	Y	Y	N	Adopted March 16, 2016
6 CCR 1014-7 - Core Public Health Services	Office of Planning, Partnerships and Improvement	§25-1-503(1)(a), C.R.S.	March 2016	N	N	N	NA
6 CCR 1011-1, Chapter 10 - Rehabilitation Centers	Health Facilities and Emergency Medical Services Division	§25-1.5-103, C.R.S.	March 2016	Y	N	N	Pending
6 CCR 1010-21 - Wholesale Food	Division of Environmental Health and Sustainability	§25-5-426; §25-4-1805, C.R.S.	April 2016	Y	N	N	Pending
6 CCR 1015-3, Chapter 3 - Emergency Medical Services Data, Information Collection and Record Keeping	Health Facilities and Emergency Medical Services Division	§25-3.5-308, C.R.S.	April 2016	Y	Y	N	Pending
5 CCR 1002-71 - Dillon Reservoir Control Regulation	Water Quality Control Division	§25-8-205, C.R.S	April 2016	N	N	N	NA
6 CCR 1007-3, Part 6, Solid and Hazardous Waste Commission Fees	Solid and Hazardous Waste Commission	§25-15-314, C.R.S	May 2016	Y	N	N	Adopted May 17, 2016

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-1, Part 4 - Standards for Protection Against Radiation	Hazardous Materials and Waste Management Division	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	May 2016	Y	Y	N	Pending
6 CCR 1007-1, Part 5 - Radiation Safety Requirements for Industrial Radiographic Operations	Hazardous Materials and Waste Management Division	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	May 2016	Y	Y	N	Pending
5 CCR 1006-2 - Medical Use of Marijuana	Center for Health and Environmental Data	Colo. Const. Art. XVIII, §14; §25-1.5-106(3)(a), C.R.S.	May 2016	Y	Y	N	Pending
5 CCR 1002-84 - Reclaimed Water Control Regulation	Water Quality Control Division	§25-8-205, C.R.S	May 2016	Y	N	N	Pending
6 CCR 1009-9 - Reporting, Prevention and Control of AIDs, HIV-related illness and HIV Infection	Disease Control and Environmental Epidemiology Division	§25-4-1402, C.R.S.	June 2016	N	Y	Y	Pending
6 CCR 1015-3, Chapter 5 - Air Ambulances	Health Facilities and Emergency Medical Services Division	§25-3.5-307, C.R.S.	June 2016	Y	Y	N	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1010-2 - Retail Food Establishment Rules	Division of Environmental Health and Sustainability	§25-4-1604(1), C.R.S.	June 2016	Y	Y	N	Pending
6 CCR 1007-1, Part 13 - Compliance Enforcement	Hazardous Materials and Waste Management Division	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	July 2016	Y	N	N	Pending
6 CCR 1007-1, Part 16 - Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies	Hazardous Materials and Waste Management Division	§25-1-108, §25-1.5-101(1)(k), §25-1.5-101(1)(l), §25-11-104 C.R.S.	July 2016	Y	Y	N	Adopted July 20, 2016
6 CCR 1011-1, Chapter 21 - Hospices	Health Facilities and Emergency Medical Services Division	§25-1.5-103, C.R.S.	July 2016	N	N	N	NA
6 CCR 1007-1, Part 7 - Use of Radionuclides in the Healing Arts	Hazardous Materials and Waste Management Division	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	August 2016	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-1, Part 8 - Radiation Safety Requirements for Radiation Generating Devices not Used in the Healing Arts	Hazardous Materials and Waste Management Division	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	August 2016	Y	N	N	Pending
6 CCR 1015-3, Chapter 2 - Emergency Medical Services Practice and Medical Director Oversight	Health Facilities and Emergency Medical Services Division	§25-3.5-206, C.R.S.	August 2016	Y	N	N	Pending
5 CCR 1002-23 - Regulations for Colorado Continuing Planning Process	Water Quality Control Division	§§25-8-202(2), 207(1)(c), and 703, C.R.S.	August 2016	N	N	N	NA
5 CCR 1002-74 - Bear Creek Watershed Control Regulation	Water Quality Control Division	§25-8-205, C.R.S	August 2016	N	N	N	NA
5 CCR 1002-82 - 401 Certification Regulation	Water Quality Control Division	§25-8-202 and 205, C.R.S	August 2016	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1002-51 and 1002-52 - Water Pollution Control Revolving Fund Rules and Drinking Water Pollution Control Revolving Fund Rules	Water Quality Control Division	§25-8-202(1)(e) and (g); 25-1.5-203, C.R.S	August 2016	N	N	N	NA
6 CCR 1016-2 - Prevention Intervention and Treatment Programs for Children and Youth	Prevention Services Division	§25-20.5-108, C.R.S.	September 2016	N	N	N	NA
6 CCR 1007-1, Part 10 - Notices, Instructions and Reports to Workers: Inspections	Hazardous Materials and Waste Management Division	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	September 2016	Y	N	N	NA
5 CCR 1002-81 - Animal Feeding Operations Control Regulation	Division of Environmental Health and Sustainability	§25-8-205, C.R.S.	October 2016	Y	N	N	Pending
5 CCR 1001-2 - Regulation Number 1, Emission Control for Particulate Matter, Smoke, Carbon Monoxide, and Sulfur Oxides	Air Pollution Control Division	§25-7-105 through 110, C.R.S.	October 2016	N	N	N	NA

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-5 - Regulation Number 3, Stationary Source Permitting and Air Pollution Emission Notice Requirements	Air Pollution Control Division	§25-7-105 through 110, C.R.S.	October 2016	N	N	N	NA
5 CCR 1001-6 - Regulation Number 4, Sale and Installation of Wood-Burning Appliances and the Use of Certain Wood-Burning Appliances During High Pollution Days	Air Pollution Control Division	§25-7-105 through 110, C.R.S.	October 2016	Y	N	N	Pending - scheduled for rulemaking hearing March 16, 2017
5 CCR 1001-15 - Regulation Number 12, Reduction of Diesel Vehicle Emissions	Air Pollution Control Division	§25-7-105 through 110, §42-4-403, C.R.S.	October 2016	Y	N	N	Adopted August 18, 2016
6 CCR 1007-2, Part 1, Section 14 - Solid Waste Disposal Sites and Facilities - Composting	Hazardous Materials and Waste Management Division	§30-20-102(8), C.R.S.	November 2016	Y	Y	N	Pending – scheduled for rulemaking hearing November 15, 2016
5 CCR 1002-21 - Procedural Rules	Water Quality Control Division	§25-8-401(2), C.R.S.	November 2016	Pending	Pending	Pending	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1002-34, 5 CCR 1002-35 - Classifications and Standards for the San Juan River, Dolores River, Gunnison, and Lower Dolores Rivers	Water Quality Control Division	§25-8-203 and 204, C.R.S.	November 2016	Pending	Pending	Pending	Pending
6 CCR 1007-2, Part 1, Section 3 - Standards for Solid Waste Disposal Landfill Sites and Facilities	Hazardous Materials and Waste Management Division	§30-20-109 and 110, C.R.S.	December 2016	Pending	Pending	Pending	Pending
6 CCR 1007-2, Part 1, Section 6 - Incinerator Ash Disposal Sites and Facilities	Hazardous Materials and Waste Management Division	§30-20-109 and 110, C.R.S.	December 2016	Pending	Pending	Pending	Pending
6 CCR 1007-2, Part 1, Section 7 - Transfer Stations	Hazardous Materials and Waste Management Division	§30-20-109 and 110, C.R.S.	December 2016	Pending	Pending	Pending	Pending
6 CCR 1007-2, Part 1, Section 11 - Solid Waste Incinerator Facilities	Hazardous Materials and Waste Management Division	§30-20-109 and 110, C.R.S.	December 2016	Pending	Pending	Pending	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-3, Part 264 - Standards for Owners and Operators of Hazardous Waste, Treatment, Storage, and Disposal Sites	Hazardous Materials and Waste Management Division	§25-15-302(2), C.R.S.	December 2016	Pending	Pending	Pending	Pending
5 CCR 1002-93 - Colorado's Section 303(d) List of Impaired Waters	Water Quality Control Division	§25-8-202, 203 and 204, C.R.S	December 2016	Y	N	N	Pending

Departmental Regulatory Agendas

Department

Department of Human Services

2017

Regulatory Agenda

COLORADO
Department of Human Services

Overview

The Colorado Department of Human Services submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Department of Human Services' DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
TBD	OBH	CBH	2 CCR 502-1	Criminal Justice (21.230)	Revisions to section 21.230 will provide best practice updates for treatment of this specific population. Revision will also refine unclear language and ensure program requirements align with other state department rules and regulations.	Revision	HB 11-1303; HB 13-1156 17-2-201(5.7), C.R.S. (2016); 17-27.1-101(5)(a), C.R.S. (2016); 18-1.3.204(2)(c); 27-80, C.R.S. (2016)	State Judicial; Correctional Treatment Board; Dept of Public Safety; Dept of Corrections; Approved Treatment Providers	1st Reading January Effective April 2017
TBD	OBH	CBH	2 CCR 502-1	DUI Level II Four Plus	Create new rules for substance use treatment providers concerning the service provisions in treating an individual who has been convicted of four or more separate and distinct episodes of driving under the influence, driving while ability impaired, vehicular homicide, vehicular assault, or any combination thereof.	New	HB 15-1043; HB 11-1303 42-4-1301.3(4)(c)(IV), C.R.S. (2016)	DUI Licensed SUD Providers	1st Reading January Effective April 2017
TBD	OBH	CBH	2 CCR 502-1	Controlled Substances & OMAT (21.300 & 21.320)	Revisions to section 21.300 and 21.320 will refine unclear language to ensure these program requirements are better understood. The revisions will also ensure that individual and public safety is paramount when providing treatment services using controlled substances.	Revision	SB 12-1311 27-80-200, C.R.S. (2016); 18-18, C.R.S.(2016)	Licensed Controlled Substance Providers	1st Reading January Effective April 2017
TBD	OBH	CBH	2 CCR 502-1	Behavioral Health Licensure and Designation (21.120)	Revisions to section 21.120 will streamline and clarify the process of obtaining and maintaining a SUD license or mental health designation from the Department.	Revision	SB 10-175 27-65, C.R.S. (2016); 27-66, C.R.S. (2016); 27-80, C.R.S. (2016); 27-81, C.R.S. (2016); 27-82, C.R.S. (2016)	SUD Licensed and Mental Health Designated Facilities	1st Reading February Effective May 2017
	OBH	CBH	2 CCR 502-1	Controlled Substance License for Researchers	Pursuant to 27-80-200, C.R.S. (2016) and 18-18, C.R.S. (2016), rules are to be promulgated requiring that any person or analytical laboratory planning, conducting, or doing research with a controlled substance, schedule II through V, shall obtain a controlled substance research license from the Department.	New	SB 12-1311 27-80-200, C.R.S. (2016); 18-18, C.R.S. (2016)	Controlled Substance Researchers	1st Reading February Effective May 2017
	OBH	CBH	Pending	Addiction Counselor Training Program	Pursuant to 27-80-111, C.R.S. (2016), the executive director shall establish by rule fees to be charged for addiction counselor training.	New	SB 10-175 27-80-111, C.R.S. (2016)	Addiction Counselor Trainers and Facilities	1st Reading February Effective May 2017
	OCAI	AAS	12 CCR 2518-1	Definitions Related to At-Risk Persons	The bill implements the following recommendations of the at-risk adults with intellectual and developmental disabilities	Revision	HB 16-1394	County Depts of Human Services	1st Reading 10/7/2016 Effective

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
					mandatory reporting implementation task force: • Standardizing statutory definitions among the "CO Criminal Code", the Adult Protective Services in CDHS, and the office of Community Living in HCPF; • Specifying that enhanced penalties for crimes against an at-risk person apply to all persons 70 years of age or older and to all persons with a disability; and • Clarifying and expanding the definitions of persons who are required to report instances of mistreatment of at-risk elders or at-risk adults with an intellectual and developmental disability (adults with IDD). The bill also: • Reduces the time when a law enforcement agency or county department is required to prepare a written report from 48 hours to 24 hours; • Specifies that a county Dept of Human or Social Services is to conduct an investigation of allegations of mistreatment of an at-risk adult; and • Clarifies that the human rights committee is responsible for ensuring that an investigation of mistreatment of an adult with IDD occurred. Update definitions and other rules related to implementation of SB13-111, SB15-109, and HB16-1394				January 2017
	OCAI	CCD HH	Pending	12 CCR 2516-1	This rule-making proposal is to update three CCDHH program rules. These include Telecommunications Equipment Distribution Program, Legal Auxiliary Services, and Grant Program.	Revision	26-21-(101-108), C.R.S.	Deaf community, hard-of-hearing community, deaf-blind community, commissioners of CCDHH, state agencies, members of the Advocacy Coalition for Equality	Not yet determined
15-5-8-1	OCAI	AAS	12 CCR 2518-1 30.100 - 830	Adult Protective Services Program Revisions	The purpose of this proposed rule change is to update all Adult Protective Services (APS) rules to: • Align the rules with changes made to statute as a result of SB15-109 and HB16-	Revision	SB15-109 and HB16-1394 26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 26-3.1-108, C.R.S.	Policy Advisory Committee; OES Sub-PAC; Child Welfare Sub-PAC; County Depts of Human/Social Services; CO Human Services Directors Assoc; CO Counties, Inc.; CO	1st Reading October Effective January 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
					1394, • Remove redundant rules and requirements, • Better align rules with current practice and the Colorado APS data system (CAPS), • Better align rules with child protective services rules, as deemed appropriate, • Improve APS practices that impact services for at-risk adults, and • Make technical corrections.		(2015)	Commission on Aging; CO Legal Services; CO Senior Lobby; Community Centered Boards; CDPHE, Health Facilities Division; HCPF, Division for Intellectual and Developmental Disabilities; Disability Law CO; Area Agencies on Aging; ARC of CO	
TBD	OCAI	TBI	1 CCR 201-17	Colorado Brain Injury Program Rule Updates FY 16/17	Revise eligibility section 12.530 to align rule with state statute (CRS 26-1-3) by removing the requirement of residency. Revise eligibility section 12.530 to remove lawful presence requirements for the CBIP. The program meets an exception to the requirement that an agency verify an individual's lawful presence in the U.S. before the provision of state or federal benefits. Revise wording to describe that the grievance process shall be an informal (vs. informational) dispute resolution process.	Revision	CRS 26-1-301 (2012), HB 06S-1023,CRS 24-76.5-103 (2016), 8 USC 1611, 8 USC 1621	Individuals and families affected by brain injury via CO Brain Injury Support Groups, Brain Injury Provider Networks, CO TBI Trust Fund Board of Directors, CO Dept of Education, HCPF, CDPHE, Brain injury Alliance of Colorado (BIAC), BIAC Board of Directors, State and Local-Level Judicial Branches	1st Reading January Effective April 2017
	OCYF	DCW	12 CCR 2509-4	Relative Guardianship Assistance Program	"The bill expands the Relative Guardianship Assistance Program (RGAP) to allow legal permanency through Allocation of Parental Responsibilities (APR-Title 14), as well as the guardianship statute (Title 15). The bill revises the definition of relative and allows non-related foster parents with whom a youth who is at least 12 years of age, with a substantial psychological tie to the foster parent(s), and with whom the youth has resided for 12 months, to be guardians and receive post-permanency assistance through RGAP. Youth 12 and older must consent to the guardianship and younger siblings of these youth can also be included in the RGAP assistance agreement. The court must make findings for non-relative foster parents that it would be seriously detrimental to the	Revision	HB 16-1448	County Depts, Judicial, children, youth and families, foster parents, certified kin foster parents	Initial Read 7/8/16 Final Adoption 8/5/16 Document 8

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
					youth to remove him/her from the foster parent's care and that the foster parent is unable to adopt because of exceptional circumstances but is willing and capable of providing the youth with a stable and permanent environment. Develop rules increasing options for RGAP eligibility, including the following: • APR may be used to establish permanency; • Youth residing in a non-relative foster home (no relationship prior to placement) for at least one year, who are 12 years of age and older, and consent to permanency with the foster parent with whom they have a significant psychological tie; and, • Siblings residing in the same non-relative foster home. Reunification and adoption must be ruled out as appropriate permanency goals.				
16-4-6-1 to 4	OCYF	DCW	12 CCR 2509-2	Child Abuse Involving Human Trafficking of Minors	Adds to the definition of "abuse" or "child abuse or neglect" to include victims of human trafficking for involuntary servitude or sexual servitude, and requires county Depts to "immediately provide social services" to the child and family when the Dept reasonably believes the child is a victim of human trafficking by a third party. Human Trafficking Task Force will need to submit a rules package to be in compliance with requirements of the Preventing Sex Trafficking and Strengthening Families Act (Public Law 113-183).	Revision	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)	County Depts, Judicial, children, youth and families, local law enforcement	Initial Read 7/8/16 Final Adoption 8/5/16 Documents 9, 10, & 11
16-5-27-1	OCYF	DCW	12 CCR 2509-1 7.000	Clarification of Practice for Placement with Kin	To implement new guidance regarding placement with kin in order to promote consistent practice statewide. The current rules are vague and confusing causing multiple interpretations of the rule and inconsistent practice statewide. County departments have requested a rule revision to clarify expectations when placing with kin and the Child Welfare Sub-PAC and PAC approved a Policy Submittal request for revision to the kinship rules.	New and Revision	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)	Child Welfare Sub-PAC; Policy Advisory Committee; Colorado Counties, Inc.; Colorado Association of Family and Children's Agencies; Court Appointed Special Advocates; Colorado Coalition of Adoptive Families; CDPHE; CO Human Services Directors Association; CO State Foster	1st Reading October Effective January 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
								Parent Association; CO Trails User Group; Division of Child Welfare Child Protection, Permanency, Placement Services, and Youth Services Teams, Fostering CO; CO Kinship Alliance; Foster and Kinship Care Coordinators; Office of the Child's Representative; Rocky Mountain Children's Law Center; Child Protection Task Group; Pathways to Success Model Youth System Project Steering Committee and Workgroups, Permanency Task Group; Kinship Task Group; and CDHS Administrative Review Division	
16-5-27-2	OCYF	DCW	12 CCR 2509-4 7.304	Clarification of Practice for Placement with Kin	Section 7.000.2 (12 CCR 2509-1), adds definitions for "conviction" and "pattern of misdemeanor" that will provide a common and consistent understanding of the terms. Currently these definitions exist in a different section of rule and are being relocated to definitions for consistency. Children, youth, kinship caregivers, foster care and kinship foster care providers, county departments of human or social services, CPAs, community providers, and other constituents will benefit from definitions being located in a centralized location. County departments of human or social services and CPAs may bear a minimal burden to notify staff and community partners of the location change. Section 7.304 (12 CCR 2509-4), revises and adds rules to clarify a number of pertinent issues involving living arrangements with kin including, legal custody status when a child/youth is placed in a non-certified kinship home (county involved vs. family arrangement); removal requirements; and	New and Revision	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)	Child Welfare Sub-PAC; Policy Advisory Committee; CO Counties, Inc.; CO Association of Family and Children's Agencies; Court Appointed Special Advocates; CO Coalition of Adoptive Families; CDPHE; CO Human Services Directors Association; CO State Foster Parent Association; CO Trails User Group; Division of Child Welfare Child Protection, Permanency, Placement Services, and Youth Services Teams, Fostering Colorado; CO Kinship Alliance; Foster and Kinship Care Coordinators; Office of the Child's Representative; Rocky Mountain Children's Law Center; Child Protection Task Group; Pathways to Success Model Youth System Project Steering Committee	1st Reading October Effective January 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
					consistent data entry when a child or youth is residing with kin. The rule establishes a practice framework outlining the possible options when placing with kinship caregivers.			and Workgroups, Permanency Task Group; Kinship Task Group; and CDHS Administrative Review Division	
16-4-8-1a	OCYF	DYC	12 CCR 2509-1	School Stability for Children and Youth in Out-of-Home Placement to Implement Federal Law	Rule changes to 7.300 and 7.000 are required to implement the educational stability provisions of the Fostering Connections and Increasing Adoptions Act of 2008 ("Fostering Connections") and the corresponding provisions in the Every Student Succeeds Act (2015). The following definition in 7.000 clarifies and supports the rules proposed in 7.300.	New and Revision	P.L. 110-351 Fostering connections to Success and Increasing adoptions act of 2008 H.R. 6893 26-1-107, C.R.S. (2016); 26-1-109, C.R.S. (2016); 26-1- 111, C.R.S. (2016); 42 U.S.C. § 675(1)(G) and (4)(A); 20 U.S.C. § 6311(g)(1)(E) and § 6312(c)(5)	Child Welfare Sub-PAC; Policy Advisory Committee; CO Counties, Inc.; CO Association of Family and Children's Agencies; Court Appointed Special Advocates; CO Coalition of Adoptive Families; CDPHE; CO Human Services Directors Assoc; CO Trails User Group; Div of Child Welfare Child Protection, Permanency, Placement Services, and Youth Services Teams, Office of the Child's Representative; Rocky Mountain Children's Law Center; Child Protection Task Group; Pathways to Success Model Youth System Project Steering Committee and Workgroups, Permanency Task Group; Kinship Task Group; CDHS Admin Review Div; and CWELC Educational Outcomes Steering Committee	1st Reading November Effective February 2017
16-4-8-1b	OCYF	DCW	12 CCR 2509-4	School Stability for Children and Youth in Out-of-Home Placement to Implement Federal Law	Rule change is required to implement the educational stability provisions of the Fostering Connections and Increasing Adoptions Act of 2008 ("Fostering Connections") and the corresponding provisions in the Every Student Succeeds Act (2015)	New and Revision	P.L. 110-351 Fostering connections to Success and Increasing adoptions act of 2008 H.R. 6893 26-1-107, C.R.S. (2016); 26-1-109, C.R.S. (2016); 26-1- 111, C.R.S. (2016); 42 U.S.C. § 675(1)(G) and (4)(A); 20 U.S.C. § 6311(g)(1)(E) and §	Child Welfare Sub-PAC; Policy Advisory Committee; CO Counties, Inc.; Colorado Assoc of Family and Children's Agencies; Court Appointed Special Advocates; CO Coalition of Adoptive Families; CDPHE; CO Human Services Directors Assoc; CO Trails User Group; Div of Child Welfare Child Protection, Permanency,	1st Reading November Effective February 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
							6312(c)(5)	Placement Services, and Youth Services Teams, Office of the Child's Representative; Rocky Mountain Children's Law Center; Child Protection Task Group; Pathways to Success Model Youth System Project Steering Committee and Workgroups, Permanency Task Group; Kinship Task Group; CDHS Admin Review Div; and CWELC Educ Outcomes Steering Committee	
16-4-8-1	OCYF	DCW	12 CCR 2509-8	Modifications to Child Care Facilitiy Licensing	The purpose of this rule packet is to align expectations between CPAs and County Foster Homes and to clarify policy interpretations as requested through SubPAC and identified by DCW and ARD.	New, Revision, and Repeal	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)	Child Welfare Sub-PAC; Policy Advisory Committee; CO Counties, Inc.; CO Assoc of Family and Children's Agencies; Court Appointed Special Advocates; CO Coalition of Adoptive Families; CDHPE; CO Human Services Directors Association; CO State Foster Parent Association; CO Trails User Group; Division of Child Welfare Child Protection, Permanency, Placement Services, and Youth Services Teams, Fostering CO; Colorado Kinship Alliance; Foster and Kinship Care Coordinators; Office of the Child's Representative; Rocky Mountain Children's Law Center; Child Protection Task Group; Pathways to Success Model Youth System Project Steering Committee and Workgroups, Permanency Task Group; Kinship Task Group; and CDHS Admin Review Div	1st Reading December Effective March 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
TBD	OCYF	DCW	12 CCR 2509-2	Review of Hotline Rules (7.102) AND Reorganize and Enhance Training Rules (7.603.1)	To update the rules for training and minimum qualifications to ensure clear language and intent, as well as a consistent feel throughout the section as part of 7.603 is currently being updated for hotline.	Revision	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)	Child Welfare Sub-PAC; Policy Advisory Committee; CO Counties, Inc.; Court Appointed Special Advocates; CO Human Services Directors Assoc; CO Trails User Group; Division of Child Welfare Child Protection, Hotline Teams, Office of the Child's Representative; Rocky Mountain Children's Law Center; Child Protection Task Group; and CDHS Admin Review Div	1st Reading December Effective March 2017
16-5-9-1	OCYF	DCW	12 CCR 2509-2	Assessment of Intrafamilial, Institutional, and Third-Party Abuse and/or Neglect	The purpose of this rule packet is to ensure alignment between rule, the state automated case management system, tools, training, federal legislation, and state statute; and to clarify policy interpretation as requested through SubPAC and identified by DCW and ARD.	Revision	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 19-1-103, C.R.S.(2015); 26-6-106.5 C.R.S. (2015)	Child Welfare Sub-PAC; Policy Advisory Committee; CO Counties, Inc.; Court Appointed Special Advocates; CO Human Services Directors Association; CO Trails User Group; Div of Child Welfare Child Protection, Hotline Teams, Office of the Child's Representative; Rocky Mountain Children's Law Center; Child Protection Task Group; and CDHS Admin Review Div	1st Reading February Effective May 2017
TBD	OEC	DECL	9 CCR 2503-9	Aligning CCCAP with Federal Changes	Federal Rules for CCDBG were passed on September 30, 2016 and go into effect on November 29, 2016. Changes to current CCCAP rules will need to be made to align State rule with Federal Rule.	Revision	Admin for Children and Families; 45 CFR Part 98; RIN 0970-AC67; Child Care and Dev Fund Prog	County Depts of Human Services; Families/Children eligible for CCCAP	Late 2017
TBD	OEC	DECL	12 CCR 2509-8	Immunization Records for Temporary Child Care	• Clarify the requirement for a licensed child care center to obtain immunization records. • This would impact children in attendance for 15 days or less during a three month period of time.	Revision	HB 16-1425 26-6-106(1)(a), and 26-6-113	Child care facilities licensed as camps	Late 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
					Update language regarding immunization requirements for child care immunization for children's camps.				
TBD	OEC	DECL	12 CCR 2509-8	Revisions to Rules Regulating School-Aged Child Care Centers	Mandatory periodic review of rules and procedures. Update rules to reflect current best practice standards and stakeholder requests.	New, revision, and repeal	26-6-106(1)(a), and 26-6-113	School-Aged child Care providers, Health Dept., Nurse Consultants	Fall 2017
TBD	OEC	DECL	12 CCR 2509-8	Revisions to Rules Regulating Children's Resident Camps	Mandatory periodic review of rules and procedures. Update rules to reflect current best practice standards and stakeholder requests.	New, revision, and repeal	26-6-106(1)(a), and 26-6-113	Children's Resident Camp providers, Health Dept., Nurse Consultants, licensing advisory committee	Fall 2017
TBD	OEC	DCFS	12 CCR 2509-10	Revisions to Rules Regarding Procedural Safeguards and Dispute Resolution	Alignment of rules with current federal regulations. Federal references to rule where missing. Moving anything that was previous a procedure into rules for clarity.	Revision	34 C.F.R. Sections 303.430 - 303.434 and 303.435 - 303.438	Community Centered Boards, providers, families of children eligible for EI	Mid 2017
TBD	OEC	DCFS	12 CCR 2509-10	Revisions to Rules Regarding Consistency in Language and Other Technical Changes	Review and change of rules for consistent terminology where needed. Movement of procedures to rule where appropriate for clarity.	Revisions	12 CCR 2509-10	Community Centered Boards, providers	Mid 2017
TBD	OEC		12 CCR 2509-8	Early Childhood Council	The Early Childhood Council statutes create a statewide system of local councils intended to coordinate community-level, public and private stakeholders in the delivery of accessible, quality child care services. See §§ 26-6.5-101 et seq., C.R.S. (2014). Article 6.5 provides the State Department of Human Services shall ""govern"" the Councils and adopt rules that define a procedure for the organizations to apply to become Councils and the criteria applicants must satisfy before their applications are accepted. The statutes also require rule making by the State Board of Human Services. This rule package addresses the following requirements for Early Childhood Councils: Creation and Reconfiguration, Service Area, Governance, Duties and Deliverables, State Department Funding Requirements	New	26-6.5-103.3, § 26-6.5-104(2)(a), C.R.S. (2007), §§ 26-6.5-103(1), 103.3(5), C.R.S. (2007)	Early Childhood Councils, Early Childhood Council Leadership Alliance, Early Childhood Council Leadership Alliance Board Members, Early Childhood Leadership Commission, OEC Sub-PAC	1st Reading December Effective March 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
16-6-1-1	OES	CS	9 CCR 2504-1 6.240.2, 6.904 (New)	Implementing HB16-1165 Child Support Commission Bill	To implement HB 16-1165 that changed the threshold income requirement under which parents are required to provide medical insurance for their children subject to a child support order. The legislation also authorizes the Division of Child Support Services to administratively attach proceeds from insurance settlements due to obligors that owe past-due child support. Pursuant to 45 CFR 303.31, and 14-10-115, C.R.S., parents are obligated to provide medical support for the children that are subject to a child support order. An exception to this requirement is made where the cost of the child's share of the medical insurance premium is not reasonable, which is now defined as 5% or more of the parent's gross income. This is a change from the 20% of a parent's gross income threshold that was previously used to define reasonable cost. Therefore, the rule that included the 20% provision now needs to be changed to 5% in order to comply with the legislation. A new section of rules is being created to implement the admin attachment of insurance claim payments, awards, and settlements through the Child Support Lien Network or a similar program. An obligor will qualify for the admin enforcement remedy when there is an arrears balance of $500.00 or more, totaled across all of the obligor's orders. Any fees assessed will be recovered from the monies collected. A notice will be generated to the obligor when a case is matched with the remedy, that notice will include information as to the admin review process. An obligor will have 30 days from issuance of the notice to request an admin review of the case.		HB 16-1165 26-1-107, C.R.S. (2015) ; 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 26-13-122.7, C.R.S; 14-10-115, C.R.S; 26-13-121.5, C.R.S; 42 U.S.C. 666; 45 CFR 303.31	County directors, County child support administrators, Federal Office of Child Support Enforcement, Child Support Lien Network, HCPF, Judicial Department, CO Legal Services, Center on Fathering	1st Reading October Effective January 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
16-7-12-1	OES	CS	9 CCR 2504-1	Revisions to the Child Support Rules for SB15-012 Pass Through Project	Implementation of Pass Through legislation requires changes to the rules so IV-A current support collections would distribute and disburse to families and would no longer be retained. Definitions will be changed to define Pass Through terms used in the allocation, distribution, and disbursement of child support payments. Distribution rule changes will allow IV-A current support collections to apply to unfunded disbursements according to the agreement with the obligee then be paid to the family when the State's Pass Through legislation is funded. Disbursement rule changes will require IV-A current support collections to be disbursed to the family within two business days when the State's Pass Through legislation is funded.	Revision	SB15-012	County Human Services Directors Association, The Legal Center, All Families Deserve a Chance Coalition, OES Sub-PAC, County Child Support Services Administrators, County CO Works Administrators, Regional Partners—Federal Office of Child Support Enforcement, HCPF, CDHS Food and Energy Assistance Div, CO Center on Law & Policy, CO Legal Services, and Fatherhood Program.	1st Reading December Effective March 2017
16-4-25-2	OES	FA	10 CCR 2506-1	Permanent from Emergency Food Assistance FFY17 Standard Utility Allowance Update and Cost of Living Adjustment	Purpose is to revise five Food Assistance Program rules at 10 CCR 2506-1 to outline the Federal Fiscal Year) 2017 income eligibility standards and deductions that are adjusted annually and made effective each October 1st. Also to revise Food Assistance Program rule 4.407.31(A-D), "Four-Tiered Mandatory Standard Utility Allowance," to incorporate the FFY 2017 standard utility allowances.	Revision	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); - 26-2-301 (2016), C.R.S.; 26-2-302 (2016), C.R.S.; Agricultural Act of 2014 (Public Law 113-79); 7 CFR 273.9(a); 7 CFR 273.9(d)(1)(i); 7 CFR [273.9] (d)(6)(iii); 7 CFR 273.10(e)(4)(i); 7 CFR 273.10(e)(2)(ii)(c); 7 CFR 273.12(e); 7 CFR 273.9(D)(6)(ii)	Office of Economic Security Sub-Pac; Food Assistance Performance Improvement Plan monthly meeting which consists of representatives from the ten largest counties	1st Reading August Effective January 2017
16-6-28-1	OES	CO Works	9 CCR 2506-1	Revisions to Colorado Works Rules for SB15-012 Pass Through Project	The half sibling rule would be eliminated since current support will be passed through to the assistance unit without detriment and will also be less confusing for the technician's workflow. The change for assignment of current child support would allow it to be passed to the assistance unit instead of retained following the legislation changes. At intake, Child Support received willed will continue to be treated as it is today and compared against the Need Standard to determine eligibility. If the	Revision	SB15-012	County Human Services Dirs Association, The Legal Center, All Families Deserve a Chance Coalition, Office of Economic Security Sub-PAC, County Child Support Services Admin, County CO Works Admin, Regional Partners—Federal Office of Child Support Enforcement, HCPF, CDHS Food and Energy Assistance Division, CO	1st Reading December Effective March 2017

DHS #	Off	Div	CCR	Title	Description	New Rule, Revision, or repeal?	Statutory Authority	Stakeholders	Anticipated Schedule
					assistance unit is under the need standard, Child Support income will not be used in determining the grant amount. For ongoing cases (during the certification period), all Child Support income will not be counted. It will not be used in determining the grant amount and will not be compared to the need standard. Change agency name to Child Support Services.			Center on Law & Policy, CO Legal Services, and the Fatherhood Program	
TBD	OPSO	ARD	12 CCR 2509-2	State Review of an Incident of Egregious Abuse or Neglect, Near Fatality or Fatality of a Child	The requirement would mandate that the county department(s) participate in the review in person, by telephone, or through other emerging technology.	Revision	C.R.S. 26-1-139	County Departments	Early 2017
16-10-17-1	OPSO	Audit	11 CCR 2508-1	Revisions to Finance and Accounting Rules (Volume 5)	Minor revisions to the fiscal rules for county departments of social/human services to remove outdated references and other minor edits.	Revision	2 C.F.R. Part 200	County Departments	First reading in December 2016 Effective in March 2017

Departmental Regulatory Agendas

Department

Department of Agriculture

2017

Regulatory Agenda

COLORADO
Department of Agriculture

Overview

The Colorado Department of Agriculture submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Colorado Department of Agriculture's DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
Adopt February 8, 2017	8 CCR 1206-2 "Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act"	Conservation	Revision	35-5.5-115 C.R.S.	*X*	Designate new List A and List B species following an assessment of their invasiveness in Colorado; update seven List B species management plans; and update reference numbers for new figures, and correct any existing typographical errors and/or obsolete language. Additional changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Local governments, weed management programs, and landowners	January 16-20, 2017
Adopt April 12, 2017	8 CCR 1209-2 "Reimbursement of Board Member Expenses"	Value-Added Development Board/ Markets Division	Revision	35-75-203 (3), C.R.S.	X	The expense reimbursements as provided in the rule are out-of-date and need to be updated to reflect current costs. Additional changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Value Added Development board members	March 20-24, 2016

Adopt April 12, 2017	8 CCR 1202-15 "Rules and Regulations Pertaining to the Administration and Enforcement of the Pet Animal Care Facilities Act"	Inspection and Consumer Services Division	Revision	35-80-109 (1) and (2) C.R.S.		Add new definitions and classifications for pet animal care facilities and clarify facility and operational requirements for pet animal care facilities.	Pet and animal care facility operators	March 20-24, 2016
Adopt June 14, 2017	8 CCR 1201-16 "Rules Pertaining to Control and Eradication of Scrapie in Sheep and Goats"	Animal Health Division	Revision	35-50-105(3)(a), (c), (f), (g) and (h), C.R.S.	X	Bring this rule into alignment with the amended USDA Scrapie in Sheep and Goats rule, 9 CFR Parts 54 and 79. Additional changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Sheep and goat producers	May 16-23, 2016
Adopt June 14, 2017	8 CCR 1203-1 "Administration and Enforcement of the Pesticide Act"	Plant Industry Division	Revision	35-9-118(2)(c),(f), and (h), C.R.S.		Change the notation to the most recent 40 CFR.	Pesticide registrants and pesticide dealers	May 16-23, 2016

Adopt June 14, 2017	8 CCR 1203-2 "Rules and Regulations Pertaining to the Administration and Enforcement of the Pesticide Applicators' Act"	Plant Industry Division	Revision	35-10-109(2) and 35-10-118(2), C.R.S.		Clean up and clarify existing rules to notate training and experience requirements for persons working in the Post-Harvest Potato Pest Control Category; make the rule consistent with the statute in regards to private applicator record retention periods and possibly clarify other category provisions.	Commercial pesticide applicators	May 16-23, 2016
Adopt November 8, 2016	8 CCR 1201-19 "Livestock Disease Control"	Animal Health Division	Revision	35-50-105(3)(a), (c), (f), (g) and (h), C.R.S.	X	Conduct an overall review of these rules with an emphasis on aligning this rule with the pending USDA Brucellosis and Tuberculosis rule. Additional changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Livestock producers, feedlot owners and staff, livestock market owners and staff	October 16-24, 2016
	8 CCR 1201-17 "Concerning the Prevention of Disease in Alternative Livestock"	Animal Health Division		35-50-101, 35-50-106,35-50-111, 35-50-144, and 35-53-111, C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Alternative livestock producers	

	8 CCR 1202-3 "Rules and Regulations Regarding Processed Animal Waste Products"	Inspection and Consumer Services Division		35-60-109(1), C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Feed manufacturers	
	8 CCR 1202-4 "Fertilizers and Soil Conditioners"	Inspection and Consumer Services		35-12-114, C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Fertilizer and soil conditioner manufacturers	
	8 CCR 1202-6 "Rules for Commercial Feed Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S."	Inspection and Consumer Services		35-60-109(1) C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Feed manufacturers	
	8 CCR 1202-7 "Rules for Pet Food Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S."	Inspection and Consumer Services		35-60-109(1) C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Pet food manufacturers	
	8 CCR 1203-8 "Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Chemigation Act"	Conservation Services Division		35-11-104 C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Producers applying agriculture chemicals through a closed irrigation system	

	8 CCR 1203-13 "Quarantine for Late Blight"	Plant Industry Division		35-3-110, C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Potato producers who import potato seed from outside of the San Luis Valley	
	8 CCR 1203-21 "Quarantine Imposed Against All Life Stages of the Japanese Beetle (Popillia Japonica) and hosts or possible carriers of Japanese Beetle pursuant to the Colorado Pest Control Act"	Plant Industry Division		35-4-110, C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Registered nurseries and anyone importing nursery stock into Colorado	
	8 CCR 1203-23 "Rules Pertaining to the Administration and Enforcement of the Industrial Hemp Regulatory Program Act"	Plant Industry Division		35-61-104(5) and 35-61-105(2) C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Producers of industrial hemp	

	8 CCR 1203-24 "Quarantine Imposed Against All Life Stage of the Emerald Ash Borer (Agrilus planipennis, Fairmaire) and Hosts or Possible Carriers of Emerald Ash Borer Pursuant to the Colorado Pest Control Act"	Plant Industry Division		35-4-110(1), C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Municipalities, county governments, nurseries, landscapers, arborists and anyone with an ash tree on property they own or manage	
	8 CCR 1205-3 "Rules Pertaining to the Annual Transportation Permit for Cattle and Alternative Livestock"	State Board of Brand Inspection Commissioners/ Brand Inspection Division		35-41-101(3), 35-53-130, C.R.S. HB 98-1101	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Livestock and alternative livestock owners and transporters; brand inspectors; and the brands office	
	8 CCR 1206-3 "Administration and Enforcement of the Weed Free Forage Crop Certification Act"	Conservation Division		35-27.5-103 C.R.S.	X	Changes may be proposed as a result of the Department's Regulatory Efficiency Review process.	Producers of weed free forage or mulch, government agencies managing public land, and the Colorado Department of Transportation	

Departmental Regulatory Agendas

Department

Department of Education

COLORADO
Department of Education

2017 State Board of Education Regulatory Agenda

Submitted to:
Colorado Secretary of State and
Colorado Legislative Council

By:
Elizabeth Cordial
Director of State Board Relations

November 1, 2016

2016-17 Regulatory Agendas for State Board of Education and Division of Capital Construction

State Board of Education Regulatory Agenda

Basis for Adoption	Purpose	Rule	Notice Date	Hearing Date	Tentative Adopt Date	Parties Potentially Affected	Adopt Date
Updates to federal regulations	Rules must be updated to align with revisions to federal regulations.	REVISE: 1 CCR 301-79, Healthy Beverage Policy	May 2016	Aug 2016	Sept 2016	School districts, public schools, students, and parents	Sept 2016
Board Chair request to align with HB 15-1323	Rules updated to reflect the opt-out assessment provisions in HB 15-1323.	REVISE: 1 CCR 301-1 Rules for the Accreditation of School Districts	June 2016	Sept 2016	Oct 2016	School districts, public schools, students, and parents	Sept 2016
Administrative Rule Review	Streamline the two sets of rules to remove redundancies and align with current law and practice.	REVISE: 1 CCR 301-29 Rules for the Annual Inspection and Preventative maintenance of School Transportation Vehicles and 1 CCR 301-26 Rules for the Operation of School Transportation Vehicles	Aug 2016	Oct 2016	Oct 2016	School districts, public schools, school transportation vehicle operators	Oct 2016
HB 16-1422 and OLLS Review	Rules must be updated to reflect a change in which statutes can be automatically waived by charter schools and correct an error in the list of statutes that districts cannot waive.	REVISE: 1 CCR 301-35 Rules for the Administration of the Waiver of Statute and Rule	Aug 2016	Oct 2016	Nov 2016	Charter schools, school districts, Charter School Institute	Oct 2016
HB 16-1429	Incorporate changes from HB 16-1429 related to Alternative Education Campus criteria.	REVISE: 1 CCR 301-57, Rules for Administration of Accountability for Alternative Education Campuses	Aug 2016	Oct 2016	Nov 2016	School districts, Alternative Education Campuses, students, and parents	Oct 2016

Prepared by CDE staff 10.28.16

2016-17 Regulatory Agendas for State Board of Education and Division of Capital Construction

HB 16-1422	Rules must be updated to reflect the new Contingency Reserve Fund established in HB 16-1422.	REVISE: 1 CCR 301-11 Rules for Accounting and Reporting	Sept 2016	Nov 2016	Dec 2016	School districts	
HB 15-1323 and Administrative Rule Review	Incorporate changes from HB 15-1323 and more recent changes to the College Entrance Exam	REPEAL: 1 CCR 301-54 Rules for the Administration of the ACT Assessment on a National Test Date REVISE: 1 CCR 301-46 Rules for the Administration of the College Entrance Exam	Sept 2016	Nov 2016	Dec 2016	School districts, public schools, teachers, and parents	
HB 16-1222	Incorporate changes from HB 16-1222 on the Amendment and Certification process	REVISE: 1 CCR 301-71 Rules for the Administration, Certification, and Oversight of Colorado Online Programs	Sept 2016	Nov 2016	Dec 2016	School districts, Online School Providers, BOCES, students, and parents	
OLLS Review	Add additional criteria for design grantees as identified by OLLS.	REVISE: 1 CCR 301-95 Rules for the Administration of the School Turnaround Leaders Development Program	Oct 2016	Dec 2016	Jan 2016	School districts, public schools, students and parents	
OLLS Review, technical changes, and new CLD pathway	Make changes to better align rules with statute and clean up technical fixes.	REVISE: 1 CCR 301-37 Rules for the Administration of the Educator Licensing Act of 1991	Dec 2016	Feb 2017	March 2017	School districts, public schools, charter schools, teachers, students, and parents	
Administrative Rule Review	Repeal rules based on Administrative Rule Review recommendation.	REPEAL: 1 CCR 301-4 Rules for Determination of Indigency	Jan 2017	March 2017	March 2017	School districts and public schools	

2016-17 Regulatory Agendas for State Board of Education and Division of Capital Construction

Administrative Rule Review	Repeal rules based on Administrative Rule Review recommendation.	REPEAL: 1 CCR 301-30 Rules for the Administration of the Second Chance Pilot Program	Jan 2017	March 2017	March 2017	School districts, public schools, students, and parents	
Administrative Rule Review	Repeal rules based on Administrative Rule Review recommendation.	REPEAL: 1 CCR 301-55 Rules for the Implementation and Financing of Regional Education and Support Services	Jan 2017	March 2017	March 2017	School districts and BOCES	
Administrative Rule Review	Repeal rules based on Administrative Rule Review recommendation.	REPEAL: 1 CCR 301-77 Rules for the Administration of the Postsecondary and Workforce Readiness Assessments Pilot Program	Jan 2017	March 2017	March 2017	School districts, public schools, teachers, and students	
Administrative Rule Review	Repeal rules based on Administrative Rule Review recommendation.	REPEAL: 1 CCR 301-47 Rules for the Administration of the Read to Achieve Grant Program	Feb 2017	April 2017	April 2017	School districts and public schools	
Administrative Rule Review	Repeal rules based on Administrative Rule Review recommendation.	REPEAL: 1 CCR 301-48 Rules for the Teacher Development Grant Program	Feb 2017	April 2017	April 2017	School districts, public schools, and teachers	
Administrative Rule Review	Repeal rules based on Administrative Rule Review recommendation.	REPEAL: 1 CCR 301-49 Rules for the Administration of the Science and Technology Education Center Grant Program	Feb 2017	April 2017	April 2017	School districts and nonprofit vendors	

2016-17 Regulatory Agendas for State Board of Education and Division of Capital Construction

Division of Capitol Construction Regulatory Agenda

Basis for Adoption	Purpose	Rule	Notice Date	Hearing Date	Tentative Adopt Date	Parties Potentially Affected	Adopt Date
HB 16-1422; SB 16-072	Adopt rules related to approving financial assistance for applicants operating in leased facilities if they meet certain criteria (HB 16-1422). Adopt rules to reflect changes in SB 16-072 related to the award of funds (SB 16-072).	REVISE: 1 CCR 303-3, Building Excellent Schools Today Grant Program	July 2016	Sept 2016	Sept 2016	School districts, charter Schools, BOCES, School for the Deaf and Blind	Sept 2016
Updates to codes, documents and standards	The items incorporated by reference are routinely updated, so the facility guidelines need to reflect the most current codes, documents & standards.	REVISE: 1 CCR 303-1 Public School Facility Construction Guidelines	July 2016	Sept 2016	Sept 2016	School districts, Charter schools, BOCES, School for the Deaf and Blind	Sept 2016

Departmental Regulatory Agendas

Department

Department of Personnel and Administration

2017

Regulatory Agency

COLORADO

Department of Personnel
& Administration

Overview

The Colorado Department of Personnel & Administration submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes the Department of Personnel & Administration's DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
January 2017	Personnel Board Rules 4 CCR 801, Ch. 8	State Personnel Board	Revision	Article XII, Sec. 14(3)		Dispute resolution	Attorney General's Office, DPA, HR offices of state agencies.	January 2017
October 2017	1 CCR 103-1	Division of Central Service Rules	Revision	24-30-1101 through 1117		These rules for equipment, personnel and services need to	All State Agencies	October 2017

						include an audit function of the Division		
October 2017	1 CCR 103-1	Division of Central Service Rules	Revision	24-30-1101 through 1117		Revision/update of commuter vehicle rules	State employees participating in the commuting program, state agency payroll staff	October 2017
January 2017	4 CCR 801, Ch. 5 & 11	Division of Human Resources Rules	Revision	Article XII	XXX	Revise/modernize time off and benefits rules	State employees, state personnel professionals, employment bar, employee partner groups	Dec.2016/ Jan. 2017
December 2017	4 CCR 801, Ch2, 3 & 7	Division of Human Resources Rules	Revision	Article XII		Revise/modernize jobs, compensation & separation rules	State employees, state personnel professionals, employment bar, employee partner groups	December 2017
November 2017	1 CCR 111-1	Office of the State Controller E-signatures	Repeal	24-30-2101 et seq.; 24-37.5- 102 et seq		E-signature rules were promulgated prior to passage of SB 08- 155 repealing DPA statutory authority over this program. Purpose to repeal rule.	Governor's Office of Information Technology; State agencies and controllers, legal community	November 2017
October 2017	1 CCR 101-9	Office of the State Controller Procurement Rules	Revisions	24-30-102, 24-102-101, 24-102-401, 24-4-103	XXX	Continue procurement process reform; pending passage of legislation	State employees, State procurement administrators, vendors	October 2017
October 2017	1 CCR 101-9	Office of the State Controller Procurement Rules	Revisions	24-105-301	XXX	Update rules promulgated by DPA in 2015 to comply with statutory requirements	State employees, State procurement administrators, vendors	October 2017

September 2017	1 CCR 101-1	Office of the State Controller Fiscal Rules	Revisions	24-30-202 et seq		Anticipated need for changes	State employees, State procurement administrators, controllers, vendors, accountants	September 2017
March 2017	1 CCR-103-9, 22, 26	Office of Admin. Courts Rules	Revisions	24-30-1500 et seq., 8-40 to 8- 47 et seq.	XXX	Statutory changes	State agencies, public, Workers Compensation bar	March 2017

Departmental Regulatory Agendas

Department

Department of State

STATE OF COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290

Wayne W. Williams
Secretary of State

Suzanne Staiert
Deputy Secretary of State

2017 Departmental Regulatory Agenda

Office of the Secretary of State
November 1, 2016

To: The Staff of Legislative Council

Re: Colorado Department of State – 2017 Departmental Regulatory Agenda

The Colorado Secretary of State submits the following 2017 Departmental Regulatory Agenda for the Department of State to the General Assembly in accordance with state laws concerning legislative oversight of principal departments.[1]

Contents:

[1] Section 2-7-203(4), C.R.S.

DEPARTMENT REGULATORY AGENDA

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-1: Elections	The Secretary of State may commence rulemaking to consider amendments to the Election Rules in order to improve the administration and enforcement of and to answer questions arising under Colorado elections law[1] concerning the following: • Implementation of risk limiting audit • School board recall petition signature requirement • Technical updates to petition verification process Additionally, the Secretary of State may commence rulemaking as necessary to: • Implement amendments to Colorado laws adopted during the 2016 Second Regular Session of the 70th General Assembly and the 2017 First Regular Session of the 71st General Assembly • Implement amendments to Colorado laws approved by the people of Colorado during the 2016 General Election • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.	Section 1-1-107, C.R.S. Section 1-4-908, C.R.S. Section 1-7-515, C.R.S. Section 1-40-116, C.R.S. Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.	This office estimates commencement of rulemaking in accordance with the State Administrative Procedure Act by the first quarter of 2017 and anticipates adoption of rules before the November 2017 coordinated election.	• All current and potential Colorado residents • All Colorado counties • Political subdivisions • Voting system manufacturers • Officeholders, candidates, and committees • Voting system manufacturers • Poll watchers, election judges, and other interested parties • Petition proponents and circulators

[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.

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-3: Rules Governing General Policies and Administration	The Secretary may propose amendments to the Rules Governing General Policies and Administration as necessary to: • Clarify declaratory order rules in accordance with section 24-4-105(11), C.R.S. • Improve rule organization and readability • Ensure that the rules are written in plain language and easy to understand • Repeal obsolete rules and language that duplicates statute • Other technical amendments as necessary for consistency with Department rulemaking format and style • Implement amendments to Colorado laws adopted during 2017 First Regular Session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.	24-4-105(11), C.R.S. Additional statutory and constitutional authority may depend on the subject matter of rulemaking.	The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the third quarter of 2017.	• Declaratory order petitioner • Parties to any agency adjudicatory proceeding • Additional persons or parties that may be affected depend on the subject matter of rulemaking
8 CCR 1505-8: Rules Concerning Lobbyist Regulation	The Secretary of State does not anticipate rulemaking regarding the Rules Concerning Lobbyist Regulation, however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of Colorado laws regarding lobbyist regulation[2] • Implement amendments to Colorado laws adopted during the 2017 First Regular Session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			
8 CCR 1505-10: Rules Concerning the Electronic Recording Technology Grant Program	In 2015, the Secretary of State reviewed the Electronic Recording Technology Grant Program rules and determined that the rules are obsolete and inoperative. Additionally, Senate Bill 16-115 amendments to section 30-10-424, C.R.S., repealed the Secretary of State's authority to promulgate rules necessary for the administration of section 30-10-421, C.R.S. 8 CCR 1505-10 will continue in its current form until the Electronic Recording Technology Board commences rulemaking.			

[2] Part 3 of Article 6 of Title 24, C.R.S.

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-11: Notary Program Rules	The Secretary of State does not anticipate rulemaking regarding the Notary Program Rules, however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of the Colorado Notaries Public Act.[3] • Implement amendments to Colorado laws adopted during the 2017 First Regular Session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			
8 CCR 1505-12: Public Records Pursuant to the Colorado Open Records Act (CORA)	The Secretary may propose amendments to the Rules Concerning Public Records Pursuant to the Colorado Open Records Act (CORA) as necessary to: • Improve the administration and enforcement of the Colorado Open Records Act[4] • Improve rule organization and readability • Ensure that the rules are written in plain language and easy to understand • Repeal obsolete rules and language that duplicates statute • Other technical amendments as necessary for consistency with Department rulemaking format and style • Implement amendments to Colorado laws adopted during the 2017 First Regular Session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.	Section 24-72-203(1)(a), C.R.S. Additional statutory and constitutional authority may depend on the subject matter of rulemaking.	TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.	• A person who request information in accordance with the Colorado Open Records Act • Additional persons or parties that may be affected depend on the subject matter of rulemaking

[3] Article 55 of Title 12, C.R.S.
[4] Article 72 of Title 24, C.R.S.

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-14: Rules Concerning Conflict of Interest Disclosures	The Secretary may propose amendments to the Rules Concerning Conflict of Interest Disclosures as necessary to: • Improve the administration and enforcement Colorado standards of conduct law[5] • Improve rule organization and readability • Ensure that the rules are written in plain language and easy to understand • Repeal obsolete rules and language that duplicates statute • Other technical amendments as necessary for consistency with Department rulemaking format and style • Implement amendments to Colorado laws regarding standards of conduct adopted during the 2017 First Regular Session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103 (7), C.R.S.	24-21-104, C.R.S. 24-21-111, C.R.S. Additional statutory and constitutional authority may depend on the subject matter of rulemaking.	The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the third quarter of 2017.	• Public officials and employees who voluntarily disclose potential conflicts of interest • Additional persons or parties that may be affected depend on the subject matter of rulemaking

[5] Article 18 of Title 24, C.R.S.

MANDATORY RULE REVIEW & RELATED RULEMAKING AGENDA

Public notices and written comments received concerning the 2016 mandatory rule reviews are available on the Secretary of State's website at: http://www.sos.state.co.us/pubs/rule_making/ruleReviews.html. The Secretary of State anticipates rulemaking in accordance with the mandatory rule review findings as follows:[6]

Rule number and title	Rule review results and summary of new or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-2: Bingo and Raffles Games	Considering the criteria outlined in section 24-4-103.3(1)(a-h), C.R.S., the Secretary finds that the rules may continue in their current form. The Secretary of State does not anticipate rulemaking regarding the Rules Concerning Bingo and Raffles Games, however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of the Colorado bingo and raffles law[7] • Implement amendments to Colorado laws adopted during the 2017 First Regular Session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			

[6] Section 24-4-103.3(4), C.R.S.
[7] Article XVIII, Section 2 of the Colorado Constitution and Article 9, Title 12 of the Colorado Revised Statutes.

Rule number and title	Rule review results and summary of new or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-6: Rules Concerning Campaign and Political Finance	Considering the criteria outlined in section 24-4-103.3(1)(a-h), C.R.S., the Secretary finds that the rules may continue in their current form. The Secretary of State does not anticipate rulemaking regarding the Rules Concerning Campaign and Political Finance Rules, however, may commence rulemaking as necessary to • Improve the administration and enforcement of Colorado campaign finance law[8] • Implement amendments to Colorado laws adopted during the 2017 First Regular Session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			
8 CCR 1505-7: UCC Filing Office Rules	Considering the criteria outlined in section 24-4-103.3(1)(a-h), C.R.S., the Secretary will commence rulemaking to propose and consider amendments to the UCC Filing Office Rules as necessary to: • Improve the administration and enforcement of Colorado's Uniform Commercial Code[9] • Repeal unnecessary and obsolete rules concerning exceptions from electronic services based on hardship. To date, the sole requests for hardship concern the filing of spurious liens. • Define terms including "amendment," "initial financing statement," and "secured party of record" for consistency with IACA Model Administrative Rules. • Simplify and clarify language • Implement amendments to Colorado's Uniform Commercial Code adopted during the 2017 first regular session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.	Section 4-9-526(a), C.R.S Section 4-9-526(6), C.R.S Section 24-21-111, C.R.S. Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.	The Secretary of State anticipates commencement of rulemaking in accordance with the State Administrative Procedure Act by the second quarter of 2017.	• Financial institutions and other UCC lienholders/secured parties • Debtors • General public

[8] Article 45 of Title 1, C.R.S., and Article XXVIII of the Colorado Constitution.

Rule number and title	Rule review results and summary of new or revised rules that the department expects to propose in the next calendar year and the purpose for the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act	Considering the criteria outlined in section 24-4-103.3(1)(a-h), C.R.S., the Secretary will commence rulemaking to propose and consider amendments to the Rules for the Administration of the Colorado Charitable Solicitations Act as necessary to: • Improve the administration and enforcement of the Colorado Charitable Solicitations Act[10] • Define terms including "registrant" • Clarify rules concerning: notice of hearing and expedited APA deadlines; when a charitable organization's registration is valid and how to renew a registration; waiver of fine; • Increase the fine for an overdue report • Repeal provisions that require registrants to file renewals and clarify the bases for allowing registrants to withdraw their registrations • Repeal unnecessary and obsolete rules • Simplify and clarify language • Make necessary style, grammatical, and punctuation changes • Improve rule organization and readability, repeal obsolete rules and language that duplicates statute, and adopt other technical amendments as necessary for consistency with Department rulemaking format and style • Implement amendments to Colorado Charitable Solicitations Act adopted during the 2017 first regular session of the 71st General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.	Section 6-16-110.5(3), C.R.S. Section 6-16-111(6)(b), C.R.S. Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.	TBD; may depend on IT scheduling and resources since several rules may require system changes.	• Charities • Professional fundraising solicitors • Paid solicitors • Charitable donors

[9] Article 9 of Title 4, C.R.S.
[10] Article 16 of Title 6, C.R.S.

SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2015

Rule number and title	CCR Tracking Number	Type	Adopted	Effective	Summary
8 CCR 1505-1: Elections	2015-00846	Permanent	2/9/2016	3/30/2016	The Secretary of State permanently adopted amendments to the election rules to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws and to implement legislation, organize existing rules for clarity, eliminate obsolete provisions, simplify existing rule language, remove language duplicative of statute, respond to comments from the Office of Legislative Legal Services, and ensure consistency with Department rulemaking standards. The rules were also intended to improve elections administration in Colorado and to increase the transparency and security of the election process.
8 CCR 1505-1: Elections	2016-00295	Permanent	8/11/2016	9/30/2016	The Secretary of State permanently adopted amendments to the election rules to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws and to implement recently passed legislation, organize existing rules for clarity, eliminate obsolete provisions, simplify existing rule language, remove language duplicative of statute, and ensure consistency with Department rulemaking standards. The rules were also intended to improve elections administration in Colorado and to increase the transparency and security of the election process.
8 CCR 1505-6: Rules Concerning Campaign and Political Finance	2016-00294	Permanent	8/11/2016	9/30/2016	The Secretary of State adopted amendments necessary to improve the administration and enforcement of Colorado campaign finance law and to eliminate obsolete provisions, remove rules stricken by the courts, remove references to repealed statutory provisions, simplify the language of existing rules, remove language that is duplicative of statute or constitutional provisions, and ensure consistency with Department rulemaking standards.

PUBLICATION AND AVAILABILITY TO THE PUBLIC

On November 1, 2016, the Secretary of State will post this document on the Department's website at: http://www.sos.state.co.us/pubs/rule_making/regulatoryAgendas.html.

Additionally, the Secretary of State filed this agenda for publication in the November 10, 2016, Colorado Register.

Departmental Regulatory Agendas

Department

Department of Corrections

COLORADO
Department of Corrections

2016-2017 Regulatory Agenda

Hilary Johnson/Policy Analyst
November 1, 2016

Summary of Agency Rule Reviews (Regulatory Plan Progress)

The Colorado Department of Corrections (DOC) began conducting rule reviews pursuant to Executive Order 2012-002. It is important to note that we review all of our rules annually, as required by American Correctional Association standards, and we use a rolling calendar system for these reviews.

2015-16 Regulatory Agenda Summary of Progress

The DOC made significant progress toward completing all regulatory goals outlined on the 2015-2016 Regulatory Agenda.

Highlights of the DOC's achievements this past year include:

NEW RULES

1600-04, Offenders Transferred to the Youthful Offender System
This AR was created to align DOC policy with SB 15-182 which allowed for appropriate offenders to be transferred into and out of the Youthful Offender System.

RULES MODIFIED DUE TO PREVIOUS STATUTORY CHANGES

250-76, Sure and Swift
This AR was updated pursuant to SB 15-124 which expanded the immediate sanction of a short term jail stay for parole violators.

500-01, Offender Case Management
This AR was updated to include provisions concerning earned time for certain offenders serving sentences as habitual offenders.

550-12, Earned Time
This AR was updated to include requirements of HB15-1122 which delays parole hearings for offenders for receive rule violations or decline to participate in offered programming.

650-03, Restrictive Housing
This AR was updated pursuant to C.R.S. 17-1-103 to provide guidelines for consistent privileges and conditions of confinement for all restrictive housing areas.

850-12, Telephone Regulations for Offenders
This AR was updated to implement fiscal requirements of SB 15-195 regarding the offender telephone system.

800-06, Offender Marriage
This AR was updated to align with HB 15-1327 concerning limitations of proxy marriage.

1150-07, Crime Scene Management and Criminal Evidence Handling
This AR was updated to implement procedures for eyewitness lineups as required by HB15058. Additionally, this AR was updated to align DOC practice with SB 15-116 concerning needle stick prevention.

1450-01, Code of Conduct

This AR was updated to include requirements of HB15-1290 concerning police interference in incident recordings. Revisions also include requirements of C.R.S 24-18-204(2)(b), C.R.S. 24-18-105(5), C.R.S. 24-18-109(2)(c).

1450-08, DOC Employee Separations
This AR was updated to reflect the provision of supplying retired peace officers with photographic identification as required by HB13-1118.

1450-34. Employee Assistance Program
This AR was updated to include provisions of HB15-1055 which allows those who are not state employees to access the employee assistance program for the benefit of state employees.

RULES REVIEWED BUT UPDATES WERE NOT REQUIRED FOR STATUTORY CHANGES

300-06, Searches and Contraband Control
It was determined this AR would not be the appropriate location to update the language. Instead AR 1150-07 Crime Scene Management and Criminal Evidence Handling was updated to align DOC practice with SB 15-116 concerning needle stick prevention.

600-XX, Internal Facility Classification
It has been determined this AR is not necessary at this time because of the upcoming implementation of the DeCorum electronic system.

700-02, Medical Scope of Service
This AR was reviewed in reference to HB 15-1029, HB 15-1185, HB 15-1032, and SB 15-197 and it was determined to be in compliance without additional changes.

700-04, Dental Scope of Service
This AR was reviewed in reference to HB 15-1309 and it was determined to be in compliance without additional changes.

700-15, Pharmacy Services
This AR was reviewed in reference to HB 15-1039 and it was determined to be in compliance without additional changes.

2016-2017 Colorado Department of Corrections Regulatory Agenda

This Regulatory Agenda is submitted pursuant to the requirements of HB 12-1008 as codified in C.R.S. 2-7-203(4).

New Rules Proposed:

Title of Proposed Rule	650-XX, Juveniles Convicted as Adults Program
Statutory or other Basis for Revision of Rule(s)	SB 16-180
Purpose of Proposed Rule(s)	To develop and implement a program for offenders who were sentenced to adult prison for a felony offense committed while the offender was less than 18.
Schedule for Adoption of	Expected Implementation: Program design August 2017 and

Rule(s)	placement of offenders into the program by November 207
Persons/Parties Affected by Rule(s)	DOC employee, offenders, public

Rules to be revised:

Title of Rule(s) being Revised	1050-06, Live Work Projects for Career and Technical Education
Statutory or other Basis for Revision of Rule(s)	SB 16-099 Correctional Education Program Sale of Goods
Purpose of Revised Rule(s)	To codify current practices related to the sale of goods and services via the DOC's Division of Education
Schedule for Revision of Rule(s)	November 2016
Persons/Parties Affected by Rule(s)	DOC employees and offenders
Title of Rule(s) being Revised	550-12, Earned Time
Statutory or other Basis for Revision of Rule(s)	SB 16-181 Concerning the Sentencing of Persons Convicted of Class I Felonies Committed while the Persons were Juveniles
Purpose of Revised Rule(s)	To update policy language to allow parole hearings to offenders who qualify and apply earned time as appropriate.
Schedule for Revision of Rule(s)	February 2017
Persons/Parties Affected by Rule(s)	DOC employees and offenders
Title of Rule(s) being Revised	1150-07, Crime Scene Management and Criminal Evidence Handling
Statutory or other Basis for Revision of Rule(s)	HB 16-1117 Recording Custodial Interrogations
Purpose of Revised Rule(s)	Update policy to require the recording of custodial interrogations and set records retention requirements for the recordings
Schedule for Revision of Rule(s)	January 2017
Persons/Parties Affected by Rule(s)	DOC employees and offenders
Title of Rule(s) being Revised	700-15, Pharmacy Services
Statutory or other Basis for Revision of Rule(s)	HB 16-1152 DOC to Distribute Prepackaged Drugs
Purpose of Revised Rule(s)	This legislation codifies current practice of the DOC Pharmacy
Schedule for Revision of Rule(s)	January 2017
Persons/Parties Affected by Rule(s)	DOC employees
Title of Rule(s) being Revised	700-19, Sex Offender Treatment and Monitoring Program
Statutory or other Basis for Revision of Rule(s)	HB 16-1215 Concerning the Sex Offender Management Board Reauthorization

Purpose of Revised Rule(s)	Update AR language to provide offenders with a choice of at least two agencies staffed by approved providers
Schedule for Revision of Rule(s)	June 2017
Persons/Parties Affected by Rule(s)	DOC employees and offenders
Title of Rule(s) being Revised	1450-05, Unlawful Discrimination/Discriminatory Harrassment
Statutory or other Basis for Revision of Rule(s)	SB 16-56 Broadening the State Whistleblower Protection Law
Purpose of Revised Rule(s)	Align policy with the requirements of whistleblower protection
Schedule for Revision of Rule(s)	May 2017
Persons/Parties Affected by Rule(s)	DOC employees and public
Title of Rule(s) being Revised	1350-04, Open Records Requests
Statutory or other Basis for Revision of Rule(s)	SB 16-110 Protecting the Privacy of Child Victims
Purpose of Revised Rule(s)	Align policy with the requirement to redact child victim identities in records releases
Schedule for Revision of Rule(s)	May 2017
Persons/Parties Affected by Rule(s)	DOC employee and public
Title of Rule(s) being Revised	700-03, Mental Health Scope of Service
Statutory or other Basis for Revision of Rule(s)	HB 16-1063 Mental Health Disclosure School Safety
Purpose of Revised Rule(s)	Align policy to allow for mental health professionals to disclose confidential communications made by a client if school safety is at risk
Schedule for Revision of Rule(s)	March 2017
Persons/Parties Affected by Rule(s)	DOC employees and offenders
Title of Rule(s) being Revised	1150-14, Background Investigations
Statutory or other Basis for Revision of Rule(s)	HB 16-1262 Law Enforcement Background Check Employment Waiver
Purpose of Revised Rule(s)	Update policy to require potential candidates for employment to execute a waiver to allow previous law enforcement or security employers to disclose all files related to the applicant
Schedule for Revision of Rule(s)	March 2017
Persons/Parties Affected by Rule(s)	DOC employee, potential employees, and public
Title of Rule(s) being Revised	1150-07, Background Investigations
Statutory or other Basis for	HB 16-1265 Concerning Expungement of Records Based on

Revision of Rule(s)	Mistake Identity
Purpose of Revised Rule(s)	Align policy to ensure that applicants who have been arrested due to mistaken identity are not required to disclose during the application process.
Schedule for Revision of Rule(s)	March 2017
Persons/Parties Affected by Rule(s)	DOC employee and potential employees

This Regulatory Agenda has been reviewed and approved by the executive director of the Colorado Department of Corrections on this 1st day of November, 2016.

Rick Raemisch
Executive Director
Colorado Department of Corrections

Departmental Regulatory Agendas

Department

Department of Law

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Office of the Attorney General

DEPARTMENT OF LAW REGULATORY AGENDA FOR CALENDAR YEAR 2017

This document contains the Colorado Department of Law's regulatory agenda for calendar year 2017 submitted pursuant to C.R.S. §2-7-203(2)(a)(IV).

List of New Rules or Revisions to Existing Rules Expected to Be Proposed in CY 2017

I. Consumer Credit Unit

A. Colorado Debt- Management Services (DMSA)

1. Proposed Rules
   a. New rules under the DMSA defining terms used therein.
   b. New rules under the DMSA concerning records required to be retained by persons subject to the Act.
   c. Repeal of outdated existing rules under the DMSA, specifically Rule 2, Adjustment of Dollar Amounts – Consumer Price Index, and Rule 3, Insurance Cancellation Notice, 4 CCR 902-2 (7-08).
   d. New rule regarding the amount of the surety bond so that the bond amount could be based on the amount of debt under the providers' enrollment agreements**.**
2. Statutory Basis

The statutory basis for adoption of any proposed rules is C.R.S. §12-14.5-232(c).

3. Purpose

The purpose of the any proposed rule is to provide clarification to persons subject to the DMSA of terms used therein so they may conform their conduct to the law. Established record retention requirements result in better compliance, consumer protection, and efficient enforcement. In addition, amendments to the DMSA in 2011 repealed several statutory sections. Rules that implemented those sections are no longer needed and should be repealed for simplicity and to avoid confusion.

4. Contemplated Schedule for Adoption

Rules will likely be adopted and/or repealed by December 31, 2017.

5. Listing of Persons and Parties Affected

Persons subject to the Act, including debt-management service companies and consumers that contract with such companies, will be affected by this anticipated rulemaking.

B. Uniform Consumer Credit Code (UCCC)

1. Proposed Rules

a. Amending rule 10(7) under the UCCC to clarify what records are required concerning payment and account histories.
b. Amend rule 9 to clarify sufficiency of financial responsibility. requirements and specify ownership change requirements.
c. Amend rule 13 to clarify requirements.
d. New rule regarding fees for electronic payment.
e. New rules under the UCCC further defining terms used therein.

2. Statutory Basis

The statutory basis for adoption of any proposed rules is C.R.S. §5-6-104(1)(e).

3. Purpose

The purpose of the proposed rules is to provide clarification to persons subject to the UCCC. Clarified record retention requirements result in better compliance, consumer protection, and efficient enforcement.

4. Contemplated Schedule for Adoption

Rules will likely be adopted and/or repealed by December 31, 2017.

5. Listing of Persons and Parties Affected

Persons subject to the Act, including supervised lenders and consumers that contract with such companies, will be affected by this anticipated rulemaking.

C. Colorado Fair Debt Collection Practices Act (CFDCPA)

1. Proposed Rules

a. Amend rule 1.04 under the CFDCPA regarding the process for Letters of Admonition.
b. Repeal rule 1.08 on Abbreviated Applications.
c. Amend rule 2.03(1) to clarify what "expressly authorized" means.
d. Amend rule 3.01 to clarify trust account requirements and liquid asset requirements of section 12-14-123.
e. Amend rule 3.04 to clarify sufficiency of financial responsibility.
f. New rule regarding what is and is not allowed as far as a payment convenience fee.
g. New rule regarding the requirements before a collection agency may utilize ACH or other electronic payment methods in the collection of a debt.
h. New rule clarifying the administration of 12-14-108(1)(j).

2. Statutory Basis

The statutory basis for adoption of any proposed rules is C.R.S. §12-14-114.

3. Purpose

The purpose of the any proposed rule is to provide clarification to persns subject to the CFDCPA of terms used therein so they may conform their conduct to the law. Clarification in definitions and processes results in better compliance, consumer protection, and efficient enforcement.

4. Contemplated Schedule for Adoption

Rules will likely be adopted and/or repealed by December 31, 2017.

5. Listing of Persons and Parties Affected

Persons subject to the Act, including collection agencies and consumers that are collected upon by such companies, will be affected by this anticipated rulemaking.

II. Peace Officers Standards and Training (P.O.S.T.)

Proposed Rules

Rule 7:

a. Amending Rule 7, Variances-changing the effective date of Rule 7 to May 15, 2017.
b. Adding Rule 7(d)(I), A variance is valid for six (6) months from the date of issue. One variance may be granted at the discretion of the Director per incident.

Rule 10:

a. Amending Rule 10, Basic Peace Officer Certification- changing the effective date of Rule 10 to May 15, 2017.
b. Adding Rule 10(a)(VI)(A), skills testing is valid for two years from the date of completion, after this time has elapsed if full certification was not issued, the applicant must retest on skills (driving, arrest control and firearms).
c. Adding Rule 10(c)(I), If a basic or reserve certificate holder is called away for military service, the certification automatically expires at the end of a three-year period from the date of last employment with a Colorado law enforcement agency. The basic certificate holder is eligible to follow the renewal process.

Rule 11:

a. Amending Rule 11, Provisional Certification- changing the effective date of Rule 11 to May 15, 2017.
b. Amending Rule 11(a), The Board is authorized to issue a provisional certification letter to any applicant who is authorized to serve as a certified peace officer by any other state or federal jurisdiction, excluding the armed forces, which has established minimum law enforcement training standards that are equivalent to the standards established by Colorado as determined by the POST Director. The provisional applicant must be fully certified within the preceding three years and must have served as a certified law enforcement officer in a full or part-time in such other state or federal jurisdiction for more than one year. The applicant must be in good standing with the certifying body of the state or federal jurisdiction. The applicant must additionally meet all of the following requirements:
c. Amending Rule 11(a)(III), Truthfully complete and submit the POST Form 3 – *Application for Provisional Certification and a notarized copy of the Release of Information Form*;

d. Amending Rule 11(b), A provisional certification letter authorizes the holder to serve as a certified Colorado peace officer for not more than six (6) months. A provisional certification letter may only be issued one time per year, per person.

Rule 13:

a. Amending Rule 13, Renewal of Basic Certification- changing the effective date of Rule 13 to May 15, 2017.
b. Adding Rule 13(c)(I), If an applicant has worked in another state as a certified peace officer after being certified in Colorado, he/she must truthfully complete and submit the POST Form 3 – *Application for Provisional Certification and a notarized copy of the Release of Information Form*;
c. Amending Rule 13(V) – remove completely.

Rule 14:

a. Amending Rule 14, Fingerprint – Based Criminal history Record Check – changing effective date of Rule 14 to May 15, 2017.
~~b.~~ Amending Rule 14(IV), The academy director shall ensure that an accurate enrollment and complete roster for each academy class is received at POST electronically ~~no later than 5:00 p.m. on the first business day following the first day of the academy~~ by the tenth (10) day after the academy commences. The enrollment roster will be completed on the template provided by POST to the academy director. ~~Each roster shall contain at minimum the following information:~~
c. Deleting Rule 14(IV)(A)(B)(C) and letting (D) to (A)
d. Amending Rule 14(IV)(D) to (A), ~~The enrollment roster will be submitted to POST for entry into the POST database. After entry, the roster will be returned to the academy director with assigned PID numbers. Within 30 days~~ The roster must be fully completed with all personal information, education, military service, etc. ~~(if not previously provided)~~ and returned to POST staff. After entry, the roster will be returned to the academy director electronically with assigned PID numbers.

Rule 15:

a. Amending Rule 15, Certification Examination, Basic, Provisional, Renewal- changing the effective date of Rule 15 to May 15, 2017.
b. Adding Rule 15 (d)(I), Any renewal or provisional applicant failing perishable skill(s) at a refresher academy and/or skills examination has two (2) years from the date they last failed the skill(s) to successfully complete the failed skill(s) at a POST approved basic academy.

Rule 16:

a. Amending Rule 16, Skills Examinations for Provisional and Renewal Applicants- changing the effective date of Rule 16 to May 15, 2017.
b. Amending Rule 16(c), Any applicant failing a skill(s) examination may retake the examination, with the payment of an additional examination fee. If the retake of the skill(s) examination will be on an individual basis with an SME the skill(s) examination must be approved by POST prior to the individual test being administered (money received, and instructor confirmation). If the retake with an SME occurs prior to POST receiving payment for the skill(s) examination certification will not be issued until POST has received payment. Any person failing any skill(s) examination three (3) times must successfully complete the skill(s) training for that particular skill in a Colorado POST-approved Basic or Reserve academy before he or she may be certified.

c. Amending Rule 16(d), renumbering to (e).

d. Adding Rule 16(d), Skills examination scores are valid for two (2) years from the date of the last registered score with POST. If an applicant does not complete the renewal or provisional certification process within two (2) years of taking the skill(s) examination, he/she must attend and successfully pass another skill(s) examination.

Rule 17:

a. Amending Rule 17, Certification Records- by changing the effective date of Rule 17 to May 15, 2017.
b. Amending Rule 17(d), By the 31st of January of each year, each agency shall verify the accuracy of the certified peace officers associated with the law enforcement agency listed on the POST portal by submitting an email to POST. By submitting this email each agency is certifying that the agency has confirmed all certified peace officers associated with their law enforcement agency has no convictions that would prevent the individual from being a certified officer in Colorado, and that each certified peace officer has a valid Colorado Driver License or ID.

Rule 18:

a. Amending Rule 18, Certification Suspension, Revocation and Reinstatement – Basic, Provisional, Renewal, and Reserve-by changing the effective date of Rule 18 to May 15, 2017.
b. Adding Rule 18(d), Upon Board approval of reinstatement of a Colorado basic peace officer certification the reinstatement will be effective immediately

Rule 28:

a. Amending Rule 28, In-Service Training Program- by changing the effective date of Rule 28 to January 1, 2018.
b. Amending Rule 28(d), Perishable skills training shall consist of a minimum of 12 hours. The required 12 hours must include a minimum of one hour of training in all three of the perishable skills (Arrest Control, Driving, and Firearms) each calendar year.

Departmental Regulatory Agendas

Department

Department of Revenue

2017

Regulatory Agenda

COLORADO

Department of Revenue

Overview

The Colorado Department of Revenue submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that May 2017 be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes the Department of Revenue's DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
Jul 2017	Regulation 12-6-502(20) Relationship between Wholesaler and salesperson (Powersports)	Auto Industry Division	New	CRS 12-5-502(2)		MVDB RULE - New rule definition for powersports	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-101(11)	Auto Industry Division	Revision	CRS 12-6-101(11)		EDO RULE - Amend definition	CADA, CIADA, PDAC, Association	

	Jurisdiction over manufacturer						Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Oct 2017	Regulation 12-6-102(12) Definition of new and used motor vehicle	Auto Industry Division	Revision	CRS 12-6-102(12)		MVDB RULE - Amend definition	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Jul 2017	Regulation 12-6-102(13) Profit definition	Auto Industry Division	Revision	CRS 12-6-102(13)		MVDB RULE - Amend definition	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Jul 2017	Regulation 12-6-102(16) Off premise permits and books/records	Auto Industry Division	Revision	CRS 12-6-102(16)		MVDB RULE - Amend definition	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Jul 2017	Regulation 12-6-102(18) Relationship between Wholesaler and salesperson	Auto Industry Division	Revision	CRS 12-6-102(18)		MVDB RULE - Amend definition	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Aug 2017	Regulation 12-6-104(3)(e) Default authority by the Executive Secretary	Auto Industry Division	Revision	CRS 12-6-104(3)(e)		MVDB RULE - Amend authority to enter default	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Aug 2017	Regulation 12-6-104(3)(f) Hearing procedure/process	Auto Industry Division	Revision	CRS 12-6-104(3)(f)		MVDB RULE - Comprehensive hearing rules/procedures	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Aug 2017	Regulation 12-6-104(3)(g) Application requirements	Auto Industry Division	Revision	CRS 12-6-104(3)(g)		MVDB RULE - Amend application requirements	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	

Sep 2017	Regulation 12-6-105(1)(c) Applications for Manufacturer	Auto Industry Division	Revision	CRS 12-6-105(1)(c)		EDO RULE - Amend/Define "administrator"	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-105(1)(d) Initiation of a complaint	Auto Industry Division	Revision	CRS 12-6-105(1)(d)		EDO RULE - Amend/Define "administrator"	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-105(1)(e) Wholesaler books and records	Auto Industry Division	Revision	CRS 12-6-105(1)(e)		EDO RULE - Amend/Define "administrator"	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-105(1)(f) Hearing procedure/process	Auto Industry Division	Revision	CRS 12-6-105(1)(f)		EDO RULE - Amend/Define "administrator"	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-114 Manufacturer warranty	Auto Industry Division	Revision	CRS 12-6-114		EDO RULE - Amend/Define "administrator"	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-115(5) Manufacturer required notifications	Auto Industry Division	Revision	CRS 12-6-115(5)		EDO RULE - Amend/Define "administrator"	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	

Sep 2017	Regulation 12-6-118(1)(b) Licensee character and record	Auto Industry Division	Revision	CRS 12-6-118(1)(b)		EDO RULE - Amend/Define "administrator"	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Jun 2017	Regulation 12-6-120.3 New EDO rule establishing procedures concerning complaints against manufacturers coming from dealers	Auto Industry Division	New	CRS 12-6-105, 12-6-120, 12-6-120.3, 12-6-131		EDO RULE - New rule as no rule currently exist	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Jul 2017	Regulation 12-6-502(11) Powersports - profit and gain	Auto Industry Division	Revision	CRS 12-6-502(11)		MVDB RULE - Amend definition	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Jul 2017	Regulation 12-6-502(16) Powersports - new rule	Auto Industry Division	New	CRS 12-6-502(16)		MVDB RULE - New regulation to allow for powersports off-premise permits	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Oct 2017	Regulation 12-6-502(7) Powersports - new rule	Auto Industry Division	New	CRS 12-6-502(7)		MVDB RULE - Add definition of new powersports vehicle	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Aug 2017	Regulation 12-6-504(1)(e)(I) Powersports - New rules	Auto Industry Division	New	CRS 12-6-504(1)(e)(I)		MVDB RULE - Add authority to enter default to powersports	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Aug 2017	Regulation 12-6-504(1)(f)(V) Hearing procedure/proc	Auto Industry Division	New	CRS 12-6-504(1)(f)(V)		MVDB RULE - Comprehensive hearing rules/procedures for	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's	

	ess for powersports					powersports	Office, AID SME	
Aug 2017	Regulation 12-6-504(2)(b) Powersports application requirements	Auto Industry Division	New	CRS 12-6-504(2)(b)		MVDB RULE - New regulation to define application requirements for powersports	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-505(1) Powersports - Jurisdiction over manufacturer	Auto Industry Division	Revision	CRS 12-6-505(1)		EDO RULE - Amend definition	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-505(1)(g) Powersports - Licensee applications	Auto Industry Division	Revision	CRS 12-6-505(1)(g)		EDO RULE - Amend application requirements	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Sep 2017	Regulation 12-6-505(1)(h) Powersports - Hearing procedure/process	Auto Industry Division	Revision	CRS 12-6-505(1)(h)		EDO RULE - Amend hearing procedures for EDO	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
Jun 2017	Regulation 12-6-524 New EDO rule establishing procedures concerning complaints against manufacturers coming from dealers (Powersports)	Auto Industry Division	New	CRS 12-6-505, 12-6-523, 12-6-524, and 12-6-537		EDO RULE - New rule as no rule currently exist (Powersports)	CADA, CIADA, PDAC, Association Attorneys, Consumer Attorneys, Manufacturer Attorneys, AG's Office, AID SME	
	Rule 10 Rules for Poker	Division of Gaming	Revision	Sections 12-47.1-201, C.R.S., 12-	x	Periodic review pursuant to	Limited Gaming Licensees, Div. of	

				47.1-203, C.R.S., 12-47.1-302, C.R.S., and 12-47.1-818, C.R.S.		Executive Order D 2012-001, and Senate Bill 14-064	Gaming Employees, Gaming Patrons	
May 2017	Rule 14 Gaming Tax	Division of Gaming	Revision	Sections 12-47.1-201, 12-47.1-203, 12-47.1-302, 12-47.1-602 and 12-47.1-604 C.R.S., (1991).		Annual Tax Hearing	Limited Gaming Licensees, Div. of Gaming Employees, Financial Analysts	
	Rule 21 Rules for Blackjack - Poker Combination Games	Division of Gaming	Revision	Sections 12-47.1-201, C.R.S., 12-47.1-302, C.R.S., 12-47.1-816, C.R.S., and 12-47.1-818, C.R.S.	x	Periodic review pursuant to Executive Order D 2012-001, and Senate Bill 14-064	Limited Gaming Licensees, Div. of Gaming Employees, Gaming Patrons	
	Rule 22 Rules for Roulette	Division of Gaming	Revision	Sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., and 12-47.1-302, C.R.S., and 12-47.1-818, C.R.S.	x	Periodic review pursuant to Executive Order D 2012-001, and Senate Bill 14-064	Limited Gaming Licensees, Div. of Gaming Employees, Gaming Patrons	
	Rule 23 Rules of Craps	Division of Gaming	Revision	Sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., and 12-47.1-302, C.R.S.	x	Periodic review pursuant to Executive Order D 2012-001, and Senate Bill 14-064	Limited Gaming Licensees, Div. of Gaming Employees, Gaming Patrons	
Mar 2017	Rule 3 Applications, Investigations and Licensure	Division of Gaming	Revision	Sections 12-47.1-102, C.R.S., 12-47.1-103, C.R.S., 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., 12-47.1-302, C.R.S., and part 5 of article 47.1 of title 12, C.R.S.		Annual Fee Analysis, regulation 47.1-303 and 47.1-305	Limited Gaming Licensees, Div. of Gaming Employees	
	Rule 8 Rules of Blackjack	Division of Gaming	Revision	Sections 12-47.1-201, C.R.S., 12-47.1-203, C.R.S., 12-47.1-302, C.R.S., 12-47.1-	x	Periodic review pursuant to Executive Order D 2012-001, and Senate Bill 14-064	Limited Gaming Licensees, Div. of Gaming Employees, Gaming Patrons	

				816, C.R.S., and 12-47.1-818, C.R.S.				
	1 CCR 204-1 Rule 1 Diesel Inspection Program	Division of Motor Vehicles	Revision	42-4-401 through 42-4-414, 42-9-101 through 42-9-113, and 25-7-122.1, C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	Drivers of CO, Emission Inspection Location, Citizens, CO Dealerships	
	1 CCR 204-10 Rule 11 Emergency Vehicle Authorization	Division of Motor Vehicles	TBD	42-1-102(6), 42-1-204, 42-4-108(5), 42-4-213, and 42-4-238, C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	Emergency Response Teams/Units, Citizens	
	1 CCR 204-10 Rule 12 Vehicles Abandoned on Private Property	Division of Motor Vehicles	TBD	42-1-204, C.R.S., and Part 21 of Article 4 of Title 42, C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	CO Residents, Citizens, CO Homeowners, Tow Service Locations	
	1 CCR 204-10 Rule 13 Public Tow Requirements for Abandoned Vehicles	Division of Motor Vehicles	TBD	24-4-103, 24-72.1-103, 42-1-204, 42-2-107 and 42-2-302 CRS.	x	Periodic review pursuant to Executive Order D2012-002	Tow Service Locations, CO Property Owners, Citizens	
	1 CCR 204-10 Rule 15 Fallen Service Member License Plates	Division of Motor Vehicles	Repeal	42-1-102 (24), 42-1-102 (24.5), 42-1-204, 42-3-213 (1) (a) (XIV), 42-3-213 (1) (f) and 42-3-213 (15), C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	Veterans, Citizens	
	1 CCR 204-10 Rule 16 Group Special License Plates	Division of Motor Vehicles	TBD	42-1-102(41.5), 42-1-201, 42-1-204, 42-3-207, 42-3-208 and 42-3-301, C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	Citizens, Special Interest Groups	
	1 CCR 204-10 Rule 26 Physical Inspection of Motor Vehicles	Division of Motor Vehicles	TBD	42-1-204, 42-3-105(1)(c)(I), and 42-6-107(1)(b), C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	DMV Employees, County Employees, Citizens	
	1 CCR 204-10	Division of	TBD	42-3-102(1.5)(a),	x	Periodic review	Citizens, DMV	

	Rule 44 Late Fee Exemption	Motor Vehicles		42-3-112(1.5)(b), C.R.S.		pursuant to Executive Order D2012-002	Employees, County Employees	
	1 CCR 204-10 Rule 45 Alumni License Plates	Division of Motor Vehicles	TBD	42-1-201, 42-1-204, 42-3-214 and 42-3-301, C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	CO Colleges, Citizens, CO Dealerships	
	1 CCR 204-10 Rule 47 Expired Temporary Registration Permits	Division of Motor Vehicles	TBD	42-1-204 and 42-3-112, C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	Citizens, DMV Employees, CSP, County Employees	
	1 CCR 204-10 Rule 48 Colorado Dealer License Plates	Division of Motor Vehicles	TBD	42-1-102(22), 42-1-204, 42-3-116, and 42-3-304, C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	AID, Citizens, CO Dealerships	
	1 CCR 204-25 Vendor Contracts for the Bulk Electronic Transfer of Department Records	Division of Motor Vehicles	Revision	42-1-206(3.7)(b) and 42-1-206(f), C.R.S.	x	Periodic review pursuant to Executive Order D2012-002	SIPA/Colorado Interactive Colorado Interactive Sub-vendors Any public or private agency requesting or receiving bulk DMV data from the Department of Revenue (TLR, DLR, and Crash Data).	
	1 CCR 204-30 Rule 7 7 Rules and Regulations or the Commercial Driver's License (CDL) Program	Division of Motor Vehicles	TBD	24-4-103, 42-2-111(1)(b),42-2-403, 42-2-114.5, 42-2-406 (3-7), and 42-2-407(8), CRS.	x	Periodic review pursuant to Executive Order D2012-002	Drivers License Schools, Citizens, CO Residents	
	1 CCR 204-6 Classification of Driver's License	Division of Motor Vehicles	TBD	42-2-114	x	Periodic review pursuant to Executive Order D2012-002	Citizens, Drivers Education Schools, Citizens, CO Dealerships	
May 2017	1 CCR 208-1; Chapter 6 of the Colorado	Division of Racing	Revision	EO D2012-02	X	To comply with Executive Order 2 ordering review of	- All horsemen - Division of Racing Events	

	Racing Commission Rules					20% of the rule book every year.		
May 2017	1 CCR 208-1; Chapter 7 of the Colorado Racing Commission Rules	Division of Racing	Revision	EO D2012-02	X	Please click this link for both Chapter 6 and 7 Rules being reviewed.	- All horsemen - Division of Racing Events	
May 2017	Rule 11.101 House Rules	Division of Racing	New	§12-60-202(3)(f); §12-60-503(1)(a)		To include a rule which expressly grants any track or off-track betting establishment the right to impose its own rules at the expense of the enacting entity enforcing their own rules without the involvement of the Division.	- Association	
May 2017	Rule 3.302 Out of Jurisdiction Rulings	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a); §12-60-507(1)(l)		To clarify that the Division May 2017, pursuant to statute, impose a suspension upon a licensee of the same duration as has been imposed in another jurisdiction.	- All licensees	
May 2017	Rule 3.307 Conditional Licensing	Division of Racing	New	§12-60-202(3)(f); §12-60-503(1)(a); §12-60-507.5(b)		To include a rule which expressly enumerates the ability of the Division, through its licensing powers delegated by the Commission, to require certain assurances of an applicant through the process of	- All applicants - All licensees	

						placing conditions upon approval of license.		
May 2017	Rule 3.437 Human Drug Testing	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To revise the Human Drug Testing rules and penalties in order to clarify general procedure and provide further guidance to licensees and Division staff in the compliance and enforcement of the rule.	- All licensees eligible for HDT testing. - Division personnel	
May 2017	Rule 3.626 Jockey Agents	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To revise the restrictions placed on a jockey and whom they May 2017 engage as jockey agents.	- Jockeys - Jockey Agents	
May 2017	Rule 4.104 Change of Officials	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To revise the rule to empower the Director of the Division to demand that a licensee-official or licensee-employee be replaced.	- All licensees	
May 2017	Rule 5.244 Horses on Grounds	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To revise the rules to require that horses are on grounds 48 hours prior to entry, instead of 48 hours prior to post.		
May 2017	Rule 5.246 Entry Prohibited from Leaving Grounds	Division of Racing	New	§12-60-202(3)(f); §12-60-503(1)(a)		To include a rule that prohibits a horse that has been entered into a race from leaving the grounds until the race in which it has been entered has	- Trainers - Owners - Betting public	

						concluded.		
May 2017	Rule 5.611 Veterinarian's List	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To revise the rule to change how certain parties May 2017 take certain horses off the vet's list.	- Horsemen - Association Veterinarians - Division Veterinarian	
May 2017	Rule 6.612 Referral Hearings	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To clarify procedure for these hearings.	- All licensees	
May 2017	Rule 6.704` Suspended Owners	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To clarify actions that may be taken when an owner has been suspended or has had their license revoked.	- Owners	
May 2017	Rule 6.706 Suspended Trainers	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To clarify actions that may be taken when a trainer has been suspended or has had their license revoked.	- Trainers	
May 2017	Rule 6.712 Medication Violation Penalty Determination	Division of Racing	Repeal	§12-60-202(3)(f); §12-60-503(1)(a)	X	To delete a rule which has become obsolete with the enacted of other sections of the rule book.		
May 2017	Rule 7.104 Double Entered Horses	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To correct typographical errors appearing in the rule book.		
May 2017	Rule 7.110 Entry by Ineligible Person	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To revise rule to streamline with current industry practice.	- Owners - Trainers	
May 2017	Rule 7.200 Entry into Race	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To revise to correct a typographical error and to harmonize with other rules appearing in same section.	- Owners - Trainers	

May 2017	Rule 7.202 Breed Registration	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To revise rule to streamline with current industry practice.	- Owners - Trainers	
May 2017	Rule 7.206 Eligibility to Race	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To address apparent contradictions in the rulebook.	- Owners - Trainers	
May 2017	Rule 7.220 Entry into Two Races	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To revise to streamline with current race industry practice.	- Owners - Trainers	
May 2017	Rule 7.416 Vet Scratches	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	To clarify the authority and procedure of a veterinarian to scratch a horse from a race.	- Private Veterinarians - Association Veterinarians - Division Veterinarians	
May 2017	Rule 7.620 Jockey Colors	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)	X	The revise current rules regarding numbers and colors, and their location, on jockeys.	- Jockeys - Betting Public	
May 2017	Rule 7.642 Helmets	Division of Racing	Repeal	§12-60-202(3)(f); §12-60-503(1)(a)	X	To remove redundant language that appears more expansively in other chapters of the rule book.		
May 2017	Rule 8.109 Post-race Testing of Claimed Horses	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To revise the rule to make process of payment more clear for both owners and trainers claiming horses and personnel designated to execute the claim.	- Owners - Trainers - Association personnel	
May 2017	Rule 8.404 Claim Arrangements	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To further assist in eliminating hidden ownerships.	- Owners -Trainers	
May 2017	Rule 8.408 Transfer of Claimed Horse	Division of Racing	Revision	§12-60-202(3)(f); §12-60-503(1)(a)		To clarify that only ownership May 2017 not be transferred	- Owners	

Oct 2017	47-1000 Qualifications for Special Event Permit.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-1002 Application for Special Event Permit.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-1004 Special Event Permit - Non-transferable.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-1006 Special Event Permit - Application on School Property.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-1008 Special Event Permit - Private Residence: Multiple Use.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-902 Sanitary Requirements.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-904 Product Labeling, Substitution, Sampling and Analysis.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-905 Colorado Wineries - Labeling and Records.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-906 Container Size.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-908 Automatic and	Liquor Enforcement		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor	LED, all liquor licensees, local	

	Electronic Dispensing Systems.	Division				Rules.	licensing authorities, general public	
Oct 2017	47-910 Consumption Prohibited.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-912 Identification.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-913 Age of Employees.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-914 Unlicensed Possession of Beverages.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-916 Advertising.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-918 Removal of Alcohol Beverages from Premises.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-920 Solicitation of Drinks.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-922 Gambling.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-924 Importation and Sole Source of Supply/Brand Registration.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	

Oct 2017	47-926 Interference with Officers.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-930 Testing of Alcohol Content - Malt Liquor and Fermented Malt Beverage.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-940 Powdered Alcohol - Packaging and Labeling.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Oct 2017	47-942 Powdered Alcohol Regulation.	Liquor Enforcement Division		12-47-202, C.R.S.	X	Planned review of the 20% of the Liquor Rules.	LED, all liquor licensees, local licensing authorities, general public	
Jul 2017	1 CCR 212-1 Medical Mar 2017ijuana Rules	Marijuana Enforcement		12-43.3-101 et seq., C.R.S.	X	Planned review of all Medical Mar 2017ijuana Rules as part of review for changes necessary to implement new legislation passed in the 2017 session of the General Assembly.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	1 CCR 212-2 Retail Mar 2017ijuana Rules	Marijuana Enforcement		12-43.4-101 et seq., C.R.S.	X	Planned review of all Retail Mar 2017ijuana Rules as part of review for changes necessary to implement new legislation passed in the 2017 session of the General Assembly.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	M 1001.5 Labeling and Packaging	Marijuana Enforcement	Revision	12-43.3-202(1)(b)(I), 12-43.3-202(1)(h),		Review packaging and labeling rules for ability to align	Licensees, Advocacy Groups, Other State Agencies, Local	

	Requirements: General Applicability			12-43.3-202(2)(a)(VI), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-403(3), 12-43.3-404(5), and 12-43.3-901(4)(b), C.R.S.		between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Authorities, Local Law Enforcement, Attorneys	
Jul 2017	M 1002.5 Packaging and Labeling of Medical Mar 2017ijuana by an Optional Premises Cultivation Operation or a Medical Mar 2017ijuana-Infused Products Manufacturer	Marijuana Enforcement	Revision	12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(7), 12-43.3-404(5), 12-43.3-404(10), and 12-43.3-901(4)(b), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	M 1003.5 Packaging and Labeling of Medical Mar 2017ijuana Concentrate by an Optional Premises Cultivation Operation or a Medical Mar 2017ijuana-Infused Products Manufacturer	Marijuana Enforcement	Revision	12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(7), 12-43.3-404(5), 12-43.3-404(10), 12-43.3-404(11)(b-c), and 12-43.3-		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	

				901(4)(b), C.R.S.				
Jul 2017	M 1004.5 Packaging and Labeling Requirements of a Medical Mar 2017ijuana Infused-Product by a Medical Mar 2017ijuana-Infused Products Manufacturer	Marijuana Enforcement	Revision	12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(2)(a)(I-III), 12-43.3-402(7), 12-43.4-404(5), 12-43.4-404(10), 12-43.4-404(11), and 12-43.3-901(4)(b), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	M 1005 Packaging and Labeling of Medical Mar 2017ijuana by a Medical Mar 2017ijuana Center	Marijuana Enforcement	Revision	12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.3-402(2)(a), 12-43.3-402(6), 12-43.3-402(7), and 12-43.3-901(4)(b), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	M 1006 Packaging and Labeling of Medical Mar 2017ijuana Infused-Product by a Medical Mar 2017ijuana	Marijuana Enforcement	Revision	12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	

	Center			43.3-402(2)(a)(I-III), 12-43.4-202(2.5)(a)(I), 12-43.3-402(2)(a), 12-43.3-402(6), 12-43.3-404(5), 12-43.3-404(10), and 12-43.3-901(4)(b), C.R.S.		clarify between concentrates and infused products.		
Jul 2017	M 1007 Packaging and Labeling of Medical Mar 2017ijuana Concentrate by a Medical Mar 2017ijuana Center	Marijuana Enforcement	Revision	12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I), 12-43.4-402(2)(a)(I-III), 12-43.4-402(6), 12-43.4-404(5), 12-43.3-404(10), and 12-43.3-901(4)(b), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	R 1001 Labeling and Packaging Requirements: General Applicability	Marijuana Enforcement	Revision	12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X) , 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(I), 12-43.4-202(3)(c)(III), 12-43.3-402(2)(a), 12-43.4-404(4)(a), 12-43.4-404(6),		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	

				and 12-43.4-901(4)(b), C.R.S.				
Jul 2017	R 1002.5 Packaging and Labeling of Retail Mar 2017ijuana by a Retail Mar 2017ijuana Cultivation Facility or a Retail Mar 2017ijuana Products Manufacturing Facility	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-403(5), 12-43.4-404(1)(b), 12-43.4-404(4)(a), and 25-4-1614(3)(a), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	R 1003.5 Packaging and Labeling of Retail Mar 2017ijuana Concentrate by a Retail Mar 2017ijuana Cultivation Facility or a Retail Mar 2017ijuana Products Manufacturing Facility.	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-403(5), 12-43.4-404(1)(b), 12-43.4-404(1)(e)(II), 12-43.4-404(1)(e)(III), 12-43.4-404(4)(a), and 25-4-1614(3)(a), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	R 1004 Packaging and Labeling Requirements of a Retail Mar 2017ijuana Product by a Retail Mar 2017ijuana	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(III), 12-43.4-202(3)(c)(V),		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	

	Products Manufacturing Facility			12-43.4-202(3)(c)(VI), 12-43.4-404(4)(a), 12-43.4-404(b)(I-II),12-43.4-404(6), 12-43.4-404(8), 12-43.4-901(2)(a), and 25-4-1614(3)(a), C.R.S.		concentrates and infused products.		
Jul 2017	R 1005.5 Packaging and Labeling of Retail Mar 2017ijuana by a Retail Mar 2017ijuana Store	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-402(4), 12-43.4-402(5), and 25-4-1614(3)(a), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	R 1006 Packaging and Labeling of Retail Mar 2017ijuana Product by a Retail Mar 2017ijuana Store	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(III), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-402(2), 12-43.4-402(4), 12-43.4-402(5), 12-43.4-901(2)(a), and 25-4-1614(3)(a), C.R.S.		Review packaging and labeling rules for ability to align between Medical and Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	R 1007.5 Packaging and Labeling of Retail Mar	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-		Review packaging and labeling rules for ability to align between Medical and	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local	

	2017ijuana Concentrate by a Retail Mar 2017ijuana Store			202(3)(a)(VII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VI), 12-43.4-402(4), 12-43.4-402(5), and 25-4-1614(3)(a), C.R.S.		Retail, create efficiencies, address public health and safety, and offer clarify between concentrates and infused products.	Law Enforcement, Attorneys	
Jul 2017	R 211 Conversion - Medical Mar 2017ijuana Business to Retail Mar 2017ijuana Establishment Pursuant to 12-43.4-104(1)(a)(I), C.R.S.	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(I-II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b) and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S.		Review production management	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	R 212 New Applicant Retail Mar 2017ijuana Cultivation Facilities Licensed Pursuant To 12-43.4-104(1)(b)(II), C.R.S.	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(I-II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b); and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S.		Review production management	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
Jul 2017	R 506 Retail Mar 2017ijuana Cultivation Facility: Production Management	Marijuana Enforcement	Revision	12-43.4-202(2)(b), 12-43.4-202(3)(a)(I-II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b) and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S.		Review production management	Licensees, Advocacy Groups, Other State Agencies, Local Authorities, Local Law Enforcement, Attorneys	
	29-2-106(9)	Taxation		29-2-106(9),	X	Periodic review	All retailers, Tax	

	Municipal Sales and Use Tax Form	Division		C.R.S.		pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Practitioners	
	39-21-113 Records and Reports	Taxation Division	Revision	39-21-113, C.R.S.	X	Update list of exceptions to confidentiality.	All Taxpayers	
	39-21-116.5 Responsibility Officer Liability	Taxation Division	New	39-21-116.5, C.R.S.	X	Clarify application of the penalty.	Officers of a Corporation and All Members of a Partnership or LLC required collecting, report, and remitting taxes.	
	39-21-120 Signature and Filing Alternatives	Taxation Division	Revision	39-21-120, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All Taxpayers	
	39-22-102(4.5) Food	Taxation Division	Revision	39-26-102(4.5), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-22-108.5 Dual Resident Trust Credit	Taxation Division		39-22-108.5, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Dual Resident Trusts, Tax Practitioners	
Oct 2017	39-22-303(11)(a) Combined Reports	Taxation Division	Revision	39-22-303(11)(a), C.R.S.	X	Clarify the application of the 3-of-6 test.	Corporations that file combined reports, Tax Practitioners	
Oct 2017	39-22-303(11)(c) Apportionment of Combined Reports	Taxation Division	Revision	39-22-303(11)(c), C.R.S.	X	Clarify how an affiliated group required to file a combined report shall apportion and allocate their income if the commercial activities of the affiliated group	Corporations that file combined reports, Tax Practitioners	

						require the use of more than one apportionment methodology.		
	39-22-303.10 Foreign Source Income	Taxation Division	Revision	39-22-303(10), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Corporations with Foreign Source Income	
	39-22-303.5.7(b) Alternative Apportionment	Taxation Division	Revision	39-22-303.5.7(b), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All Corporations	
May 2017	39-22-304(2)(f) Gross Conservation Easement Addition	Taxation Division	Revision	39-22-304(2)(f), C.R.S.	X	Update to conform to Rule 39-22-104(3)(G)	Corporations donating gross conservation easements, Conservation easement community.	
Oct 2017	39-22-305 Consolidated Returns	Taxation Division	Revision	39-22-305, C.R.S.	X	Clarify the means of making a consolidated election and withdrawing a consolidated election. In addition, the regulation follows the standards established in Treas. Reg. § 301.9100-3 to allow relief to taxpayers who provide evidence to establish that the taxpayer acted reasonably and in good faith when it failed to make an election in the allotted timeframe.	Corporations that file consolidated returns, Tax Practitioners	

Mar 2017	39-22-516 Innovative Motor Vehicles and Trucks	Taxation Division	New	39-22-516.7 and 516.8, C.R.S.		Clarify the credit for innovative motor vehicles and trucks.	Vehicle Owners, Auto Dealers, Auto Manufacturers, Auto Financing Entities, Environmental groups, Energy Industry, Trucking or Freight Industry	
	39-22-518 Colorado Capital Gain Subtraction	Taxation Division	Revision	39-22-518, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All taxpayers, Tax Practitioners	
	39-22-526 Environmental Remediation of Contaminated Land	Taxation Division	New	39-22-526, C.R.S.		Discuss how the transfer of the credit works.	Environmental Remediation Industry	
	39-22-531 Colorado Job Growth Incentive	Taxation Division	New	39-22-531, C.R.S.		Clarify the Colorado Job Growth Incentive Tax Credit.	All Taxpayers, Tax Practitioners	
Feb 2017	39-22-538 Healthcare Preceptor	Taxation Division	New	39-22-538, C.R.S.		Set forth a method for determining the 200 credits available	AHEC, Healthcare Industry, Schools	
Mar 2017	39-22-604(4) Withholding Tax Filing Periods and Due Dates	Taxation Division		39-22-604, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All businesses with employees	
Mar 2017	39-22-604.1 Withholding Tax	Taxation Division		39-22-604, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All businesses with employees	
Mar 2017	39-22-604.17 Winnings in Colorado	Taxation Division		39-22-604, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All businesses with employees	
Mar 2017	39-22-604.3 Requirement to	Taxation Division		39-22-604, C.R.S.	X	Periodic review pursuant to 24-4-	All businesses with employees	

	Withhold					103.3, C.R.S. and Executive Order D 2012-002.		
Mar 2017	39-22-604.5 Whole Dollar Amounts	Taxation Division		39-22-604, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All businesses with employees	
Mar 2017	39-22-604.6 Withholding Statements	Taxation Division		39-22-604(6), C.R.S.	X	The United States Congress recently passed H.R.2029 - Consolidated Appropriations Act of 2016, which amends the due dates in I.R.C. § 6071 for employers to file wage and tax statements with the Internal Revenue Service and their employees. Colorado's due dates for filing wage and tax statements with the Department and their employees is the same dates established in I.R.C. § 6071. As such, the due dates for Colorado's wage and tax statements have been amended, and the rule needed to conform to these changes.	All businesses with employees	
	39-26-102(15) Tangible Personal Property	Taxation Division	Revision	39-26-102(15), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	

	39-26-102.11 Rooms and Accommodations	Taxation Division		39-26-102(11), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Hotel and lodging industry, Tax Practitioners	
	39-26-102.12 Sales Tax on Manufactured Articles	Taxation Division	Revision	39-26-102(12), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-102.14 State Treasurer	Taxation Division	Repeal	39-26-102(14), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-102.20 Ingredient or Component Parts	Taxation Division		39-26-102(20), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Manufacturers, Compounders, Processors, Tax Practitioners	
	39-26-102.22 Disputes	Taxation Division		39-26-102(22), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-102.5 Gross Taxable Sales	Taxation Division	Revision	39-26-102(5), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-102.7(a) Purchase Price	Taxation Division	Revision	39-26-102(7)(a), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-104.1(e) Tips and Gratuities	Taxation Division		39-26-104(1)(e), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Restaurant Industry, Hotel and lodging Industry Tax Practitioners	
	39-26-104.1(f) Short Term	Taxation Division		39-26-104(1)(f), C.R.S.	X	Periodic review pursuant to 24-4-	Hotel and lodging industry, Tax	

	Room Rentals					103.3, C.R.S. and Executive Order D 2012-002.	Practitioners	
May 2017	39-26-105 Remittance of Tax	Taxation Division	Revision	39-26-105, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-105.1(c) Documenting Exempt Sales	Taxation Division		39-26-105(1)(c), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-106(2)(b) Price on Alcoholic Drinks	Taxation Division		39-26-106(2)(b), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Restaurant Industry, Hotel and lodging Industry, Tax Practitioners	
	39-26-106(2)(b)(c) Price on Malt and Vinous Drinks	Taxation Division		39-26-106(2)(b), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Restaurant Industry, Hotel and lodging Industry, Tax Practitioners	
May 2017	39-26-109 Nonstandards Filing Periods	Taxation Division	Revision	39-26-109, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-113 Registering Vehicles	Taxation Division		39-26-113, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Auto Dealers, Auctioneers, Local Governments	
May 2017	39-26-122 Sales Tax Forms	Taxation Division		39-26-122, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-125 Statute of Limitations When No	Taxation Division		39-26-125, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D	All retailers, Tax Practitioners	

	Return is Filed					2012-002.		
	39-26-210 Use Tax Statute of Limitations	Taxation Division		39-26-210, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-703(2)(c) Contractor's Refund Claim	Taxation Division		39-26-703(2)(c), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Contractors, Tax Practitioners	
	39-26-703(2)(e) Claiming Credit on a Return	Taxation Division		39-26-703(2)(e), C.R.S	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-703.2(c.5) Three Year Statute of Limitations on Refund Claims	Taxation Division		39-26-703.(2)(c.5), C.R.S.		Address statutory change and discuss vendor's protection from class action lawsuits.	All retailers, Tax Practitioners	
Apr 2017	39-26-704.1 Government Entities Exemption	Taxation Division		39-26-704(1), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	All retailers, Tax Practitioners	
	39-26-704.3 Rooms and Accommodations Permanently Occupied	Taxation Division		39-26-704(3), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Hotel and lodging industry, Tax Practitioners	
	39-26-707.1 Food Containers	Taxation Division		39-26-707(1), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Restaurant Industry, Hotel and lodging Industry, Tax Practitioners	
	39-26-708.1 Exempt Contracts	Taxation Division		39-26-708(1), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Contractors, Tax Practitioners	

	39-26-708.3 Contractor's Exemption	Taxation Division		39-26-708(3), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Contractors, Tax Practitioners	
	39-26-711(1)(a) Commercial Airlines	Taxation Division		39-26-711(1)(a), C.R.S.s	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Commercial Airlines, Tax Practitioners	
Jan 2017	39-26-713.2(d) Government / Charitable Use	Taxation Division	Repeal	39-26-713(2)(d), C.R.S	X	Repeal rule because it only cross references another rule.	All retailers, Tax Practitioners	
Jan 2017	39-26-713.2(e) Ingredients	Taxation Division	Repeal	39-26-713(2)(e), C.R.S	X	Repeal rule because it only cross references another rule.	All retailers, Tax Practitioners	
	39-26-715(1)(a)(II) Fuel for Residential Use	Taxation Division		39-26-715(1)(a)(II), C.R.S.	X	Update to conform with HB 16-1457.	Electric Utilities and Gas Companies	
	39-29-102(3)(a) Gross Income of Oil and Gas	Taxation Division	Revision	39-29-102(3)(a), 39-29-105, C.R.S.	X	Update the rule after the BP v Colorado Department of Revenue case was decided by the Colorado Supreme Court	Oil and Gas Industry, Local Governments, DNR, DOLA	
	39-29-103 Taxation of Metallic Minerals	Taxation Division	Revision	39-29-103, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Mining Industry, Local Governments	
	39-29-107 Taxation of Oil Shale	Taxation Division	Revision	39-29-107, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Oil and Gas Industry, Local Governments	
	39-29-112 Due Dates for Filing Severance Tax	Taxation Division		39-29-112, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and	Oil and Gas Industry, Mining Industry Local Governments	

	Returns					Executive Order D 2012-002.		
	39-29-115 Severance Tax Penalty and Interest	Taxation Division		39-29-115, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Oil and Gas Industry, Mining Industry Local Governments	
Apr 2017	43-4-804(1)(b) Daily Rental Fee	Taxation Division	New	43-4-804(1)(b), C.R.S.		Draft a new rule to discuss whether government entities are subject to the fee, and lay out the primary business at each location rule.	Vehicle Rental Companies, Government Entities	
	8-20-206.5 Environmental Response Surcharge	Taxation Division	New	8-20-206.5, C.R.S.		Clarify that whoever brings the fuel into the state first must pay the surcharge.	Fuel Distributors	
	SR 10 Contractors	Taxation Division		39-26-102(12), 39-26-703(2)(c), 39-26-708, C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Contractors, Tax Practitioners	
	SR 13 Eating and Drinking Establishments	Taxation Division		39-102(4.5), 39-26-104(1)(e), 39-26-106(2)(b), 39-26-707, C.R.S	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Restaurant Industry, Tax Practitioners	
	SR 22 Hotels and Motels	Taxation Division		39-26-102(11), 39-26-104(1)(f), 39-26-704(3), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Hotel and lodging industry, Tax Practitioners	
	SR 3 Autodealers Incidental Use	Taxation Division		39-26-7113(2)(b)(II), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D 2012-002.	Auto Dealers	
	SR 9 Containers	Taxation Division		39-26-102(20) and 39-26-203(1)(f), C.R.S.	X	Periodic review pursuant to 24-4-103.3, C.R.S. and Executive Order D	Manufacturers, Compounders, Processors, Tax Practitioners	

						2012-002.		
	SR 9 Debt Buying Companies	Taxation Division	New	39-22-303(5)(7)(a), C.R.S.		Clarify how debt buying companies should apportion their income because they do not fit under other apportionment methodologies.	Debt Buying Companies	
March 2017	Rule 14E. Lucky for Life	Lottery	revision	C.R.S. 24-35-201, 24-35-208 (1) (a) and (2), and 24-35-212 and 24-35-212.5.	X	Shorten time frame that second prize is paid.	Yes, Lottery Stakeholder Group	02/08/2017
June 2017	Rule 2: Licensing	Lottery	review	C.R.S. 24-35-206 and 24-35-208(1)(a) and (2)	X	Review efficiency of rules	NA	NA
September 2017	Rule 5: Scratch Games	Lottery	review	C.R.S. 24-35-208(1), (2) and (3) and 24-35-212 and 24-35-212.5	X	Review efficiency of rule.	NA	NA

Departmental Regulatory Agendas

Department

Department of Transportation

COLORADO
Department of Transportation
Office of the Executive Director
4201 East Arkansas Ave, Suite 262
Denver, CO 80222

October 31, 2016

Mr. Mike Mauer
Director
Legislative Council Staff
Colorado General Assembly
State Capitol, Room 029
Denver, CO 80203

Re: Colorado Department of Transportation 2017 Department Regulatory Agenda

Dear Mr. Mauer:

Pursuant to Section 2-7-203(2)(a)(IV), C.R.S., this letter serves as the Colorado Department of Transportation's (CDOT) submission of its 2017 Department Regulatory Agenda. This report provides a list of new rules or existing rule revisions that CDOT expects to propose in 2017, as well as the statutory or other basis for adoption of the proposed rules, the purpose of the proposed rules, the contemplated schedule for adoption of the rules, and a listing of persons or parties that may be affected by the rules. Additionally, this letter summarizes the rule-making activities conducted in 2016. The contemplated schedule is based on the timing requirements set forth in existing statute under the State Administrative Procedure Act, Section 24-4-103, C.R.S., and takes into account the public meetings of the Transportation Commission, which will open and later adopt the rules during their monthly public meetings. The calendars listed are subject to change based on various factors, including additional time needed for input from the representative groups and interested parties.

This Department Regulatory Agenda is available to the public at www.codot.gov/business/rules and was submitted to the Secretary of State for publication in the Colorado Register. Furthermore, at the annual oversight hearing before the Joint Transportation Committee in January 2017, CDOT will be prepared to discuss this material and respond to Legislators' questions.

2017 Department Regulatory Agenda

Transport Permits for the Movement of Extra-Legal Vehicles or Loads, 2 CCR 601-4

- **Statutory Basis:** Sections 42-4-510 (1)(b), 511(1), and 43-1-106(8)(k), C.R.S.
- **Purpose of the Rules:** These Rules are needed to comply with state statutes and federal law that allow the movement on State Highways of Vehicles and Loads exceeding Legal Limits provided that the Department issues a permit for such Vehicles and Loads.
- **Contemplated Schedule:** A notice of rule-making will be filed with the Secretary of State in November 2016, a public rule making hearing will be held in January 2017, adoption of the rules will occur in March 2017, and permanent rules will become effective May 2017.
- **Persons/Parties That May be Affected by the Rules:** Commercial Motor Carriers, all extra-legal vehicles or loads, Colorado State Patrol.

State Highway Utility Accommodation Code, 2 CCR 601-18

- **Statutory Basis:** Sections 43-1-225(1) and 43-1-106(8)(k), C.R.S.
- **Purpose of the Rules:** These rules implement, by permit, Department authority to regulate utility accommodations in state highway right-of-way. The Code establishes a utility permit system which includes uniform Department procedures and requirements necessary to allow utility accommodations. The utility permit system will guide the Department, utility owners and local agencies in the planning and administration of utility accommodations within state highway right-of-way.
- **Contemplated Schedule:** A notice of rule-making will be filed with the Secretary of State in March 2017, a public rule making hearing will be held in May, adoption of the rules will occur in June 2017, and permanent rules will become effective August 2017.
- **Persons/Parties That May be Affected by the Rules:** Public utility owners and local agencies who work with the planning and administration of utility accommodations within state highway right-of-way.

Rules Completed in 2016:

- **Updated Rules Governing Practice and Procedures of the Transportation Commission of Colorado, 2 CCR 601-11** *(Statutory Basis:* Section 43-1-106(6) and 43-1-106(8)(k), C.R.S.)

Should you have questions, please contact Andy Karsian, CDOT State Liaison, at (303) 757-9703. Thank you.

Sincerely,

Shailen P. Bhatt
Executive Director

cc: Senator Randy Baumgardner, Chairman, Senate Transportation Committee
Representative Max Tyler, Chairman, House Transportation Committee

4201 E. Arkansas Ave, Suite 262, Denver, CO 80222 P 303.757.9201 F 303.757.9656 www.codot.gov

Departmental Regulatory Agendas

Department

Department of Higher Education

COLORADO
Department of Higher Education

1560 Broadway, Suite 1600
Denver, CO 80202

John Hickenlooper
Governor

Diane Duffy
Interim Executive Director

October 31, 2016

Mike Mauer, Director, Legislative Council
Colorado General Assembly
State Capitol, Room 029
Denver, CO 80203

Mr. Mauer:

Pursuant to Colorado Revised Statutes 2-7-203(3)(a)(IV), the Colorado Department of Higher Education respectfully submits the following regulatory agenda, which includes items for the Division of Private Occupational Schools, the Colorado Opportunity Scholarship Initiative, and the State Historical Society.

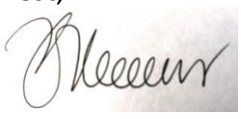
2017 REGULATORY AGENDA of the COLORADO DEPARTMENT OF HIGHER EDUCATION

Title/ Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
Division of Private Occupational Schools				
REVISE: 8CCR 1504-1, sections II-General and Administrative (Fee Schedule) and section XI.D.3. (Schedule of Fines).	C.R.S. § 12-59-105.3(1)(j)	To consider fee revisions; to more appropriately place those fines that related directly to the administrative process of the Division in the fee schedule where they will be noticed as late fees.	January 30, 2017	Owners & Operators of Private Occupational School; The Division of Private Occupational Schools. There will be a relatively minor increase in fees to be paid by each individual school by increasing fees; However, there would be a significant negative fiscal impact on the Division's ability to properly administrate if fees are not raised. Similarly, noticing late fees as such will establish fees for the direct and indirect costs of the administration of the Act and Division.
REVISE: 8CCR	C.R.S. § 12-59-	To clarify the	January 30,	This rule protects

Title/ Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
1504-1, sections !V- Application for Certificate of Approval and Surety Requirements, E. and Section V. Annual Filings	105.3(1)(j)	language for surety requirements and annual filings requirements.	2017	members of general public; students enrolled in and residents of Colorado desiring to seek admission in an approved Private Occupational School; and provides clarity for applying and approved private occupational school owners and staff with respect to the requirements for obtaining and maintaining a surety instrument. There is no anticipated fiscal impact.
Colorado Opportunity Scholarship Initiative				
• Nothing to report for 2017				
State Historical Society				
REVISE: section 9 of 8 CCR 1504-7	C.R.S. § 24-80-1304 and C.R.S. § 24-4-101	Section 9 of 8 CCR 1504-7 is proposed for revision to clarify the terms and incentives for greater public benefit to held-in-trust partner approved museums for the curation of collections from State lands.	Notice: February 2017	• Archaeological and Paleontological researchers/consultants • County and municipal museums or curational facilities under approval of History Colorado

If you should have any questions, please do not hesitate to contact me at 303-883-7076.

Best,



Kachina Weaver
Chief Policy Officer

Departmental Regulatory Agendas

Department

Department of Health Care Policy and Financing

COLORADO
Department of Health Care Policy & Financing

Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203

November 1, 2016

Members of the Colorado General Assembly
c/o Legislative Council
State Capitol Building
200 East Colfax
Denver, Colorado 80203

Dear Members of the General Assembly:

The Department of Health Care Policy and Financing (Department) respectfully submits its 2016 Regulatory Agenda Report and 2017 Regulatory Agenda, in compliance with Section 2-7-203, C.R.S. The Department has also submitted the 2017 Regulatory Agenda to the Colorado Secretary of State for publication in the Colorado Register, and it will be posted to the Department's website.

The Department's 2016 Regulatory Agenda Report provides a brief summary of all permanent, temporary and emergency rules reviewed, revised and adopted since the Department's 2016 Departmental Regulatory Agenda was filed on November 1, 2015, as well as the status, comments, and information relative to stakeholder input. Pursuant to Section 24-4-103.3(4), C.R.S., the 2016 Regulatory Agenda Report also reflects the results of the Department's mandatory rule review activity over the past year. Effective July 1, 2016, all permanent rules adopted by the Department, as reflected in the 2016 Regulatory Agenda Report, involved early stakeholder engagement, as described by the Department's procedures for public participation in rulemaking (available online at https://www.colorado.gov/hcpf/stakeholder-engagement-protocols).

If you require further information or have additional questions, please contact the Department's Legislative Liaison, Zach Lynkiewicz, at Zach.Lynkiewicz@state.co.us or 720-854-9882, or the Medical Services Board Coordinator, Chris Sykes at chris.sykes@state.co.us or 303-866-4416.

Sincerely,

Susan E. Birch, MBA, BSN, RN
Executive Director

SEB/cjs
Enclosure(s): HCPF 2017 Regulatory Agenda and 2016 Regulatory Agenda Report

Cc: Senator Larry Crowder, Vice-Chair, Health and Human Services Committee
Senator Beth Martinez Humenik, Health and Human Services Committee
Senator Irene Aguilar, Health and Human Services Committee
Senator Linda Newell, Health and Human Services Committee
Legislative Council Library
State Library
John Bartholomew, Finance Office Director, HCPF
Gretchen Hammer, Health Programs Office Director, HCPF
Tom Massey, Policy, Communications, and Administration Office Director, HCPF
Chris Underwood, Health Information Office Director, HCPF
Dr. Judy Zerzan, Client and Clinical Care Office Director, HCPF
Jed Ziegenhagen, Community Living Office Director, HCPF
Rachel Reiter, External Relations Division Director, HCPF
Zach Lynkiewicz, Legislative Liaison, HCPF
Chris Sykes, Medical Services Board Coordinator, HCPF

2017

Regulatory Agenda

COLORADO
Department of Health Care Policy & Financing

Overview

The Colorado Department of Health Care Policy and Financing submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Department of Health Care Policy and Financing's DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
August 2017	10 CCR 2505-10 Section 8.013 Out-of-State Medical Care	Health Programs Office	Revision	42 CFR 431.52		Revise rule language for clarity.	Health First Colorado clients, in- and out-of-state providers	August 2017
April 2017	10 CCR 2505-10 Section 8.520 Home Health Services	Health Programs Office	Revision	42 CFR 440.70 CRS 25.5-5-102(1)(f)	X	Revise rule to comply with new federal requirements.	Health First Colorado clients, home health providers	April 2017
April 2017	10 CCR 2505-10	Health	Revision	CRS 25.5-5-	X	Update rule	Health First Colorado	April 2017

	Section 8.540 Private Duty Nursing (PDN) Services	Programs Office		202(1)(n)		language.	clients, PDN providers	
March 2017	10 CCR 2505-10 Section 8.550 Hospice Benefit	Health Programs Office	Revision	CRS 25.5-5-202(1)(p)	X	Define amount, duration and scope of benefit.	Health First Colorado clients, hospice providers	March 2017
July 2017	10 CCR 2505-10 Section 8.560 Clinic Services Certified Health Agency	Health Programs Office	Repeal	CRS 25.5-5-202(1)(b)	X	Repeal section of rule that is no longer applicable.	Health First Colorado clients, providers	July 2017
October 2017	10 CCR 2505-10 Section 8.570 Ambulatory Surgery Centers	Health Programs Office	Revision	CRS 25.5.-5-301(2)(d)	X	Define amount, duration and scope of benefit.	Health First Colorado clients, ambulatory surgery centers	October 2017
May 2017	10 CCR 2505-10 Section 8.585 DME Oxygen	Health Programs Office	Revision	CRS 25.5-5-102(1)(f)	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, medical and DME providers	May 2017
May 2017	10 CCR 2505-10 Section 8.726 Teen Pregnancy Prevention Pilot Program	Health Programs Office	Revision	CRS 25.5-5-601 - 605	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, providers	May 2017
March 2017	10 CCR 2505-10 Section 8.730 Family Planning Services	Health Programs Office	Revision	SSA 1905(a)(4)(C) SSA 1902(a)(10)(C) CRS 25-1.5-101 CRS 25-6-101 - 103 CRS 25-6-201 - 207 CRS 25-6-301 - 302 CRS 25.5-5-102	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, providers	March 2017

November 2017	10 CCR 2505-10 Section Screening, Brief Intervention and Referral to Treatment (SBIRT) Services	Health Programs Office	Revision	CRS 25.5-202(1)(u)(I)	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, providers	November 2017
August 2017	10 CCR 2505-10 Section 8.747 Federally Qualified Health Centers (FQHCs)	Health Programs Office	Revision	CRS 25.5-5-102(1)(m)	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, FQHCs	August 2017
June 2017	10 CCR 2505-10 Section 8.740 Rural Health Clinics (RHCs)	Health Programs Office	Revision	CRS 25.5-5-102(1)(i)	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, RHCs	June 2017
June 2017	10 CCR 2505-10 Section 8.754 Client Co-Payment	Health Programs Office	Revision	SSA 1902(a)(14) SSA 1916 and 1916A 42 CFR 447.50-447.57 CRS 25.5-4-209(1)(b)	X	Update rule to comply with federal requirements, and revise language for clarity.	Health First Colorado clients, providers	June 2017
September 2017	10 CCR 2505-10 Section 8.765 Services for Clients in Psychiatric Residential Treatment Facilities (PRTFs) or Residing in Residential Child Care Facilities	Health Programs Office	Revision	CRS 25.5-5-306	X	Update rule provisions concerning PRTF client eligibility; PRTF provider responsibilities; and mental health benefits for clients in an RCCF.	Health First Colorado clients, PRTFs, RCCFs	September 2017

	(RCCFs) as Defined Below							
February 2017	10 CCR 2505-10 Section 8.075 Client Over-Utilization Program	Health Programs Office	Revision	42 CFR 456.3 42 CFR 431.54(e)-(f) CRS 25.5-5-102 CRS 25.5-5-202(3) CRS 25.5-5-316	X	Revise rule to comply with new statutory requirements for Medicaid client appeals process; and update rule to align with changes to program enrollment criteria and processes.	Health First Colorado clients, providers, pharmacies, Regional Care Collaborative Organizations	February 2017
March 2017	Transgender Services	Health Programs Office	New	45 CFR 92 CRS 25.5-5-102(d)		Define the amount, scope, and duration of the benefit.	Health First Colorado clients, providers	March 2017
April 2017	Pediatric Orthodontic Services	Health Programs Office	New	CRS 255-5-102(1)(g)		Define the amount, scope, and duration of the benefit.	Health First Colorado clients, orthodontists	April 2017
January 2017	Speech Generating Devices	Health Programs Office	New	CRS 25.5-5-202(1)(f)		Define the amount, scope, and duration of the benefit.	Health First Colorado clients, as well as medical, Speech Language Pathologists, and DME providers	January 2017
May 2017	Vision Services	Health Programs Office	New	CRS 25.5-5-202(1)(d)		Define the amount, scope, and duration of the benefit.	Health First Colorado clients, providers	May 2017
June 2017	Physical and Occupational Therapy	Health Programs Office	New	CRS 25.5-5-202(1)		Define the amount, scope, and duration of the benefit.	Health First Colorado clients, physical and occupational therapy providers	June 2017
June 2017	10 CCR 2505-10 Section 8.202 Laboratory, Pathology, and Radiology	Health Programs Office	Revision	CRS 25.5-5-102(1)(c)		Reorganize the laboratory, pathology, and radiology benefits into a single, three-part section; and define the amount, scope, and duration	Health First Colorado clients, providers	June 2017

						of the benefits.		
March 2017	10 CCR 2505-10 Section 8.011 General Exclusions from Coverage	Health Programs Office	Revision	CRS 25.5-4-105 CRS 25.5-4-205.5 CRS 25.5-4-300.4 CRS 25.5-5-102 CRS 25.5-5-202	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, providers	March 2017
July 2017	10 CCR 2505-10 Section 8.058 Request for Prior Authorization	Health Programs Office	Revision	SSA 1902(a)(30)(A) CRS 25.5-4-401	X	Revise rule in accordance with findings of 2016 regulatory efficiency review.	Health First Colorado clients, providers	July 2017
December 2016	10 CCR 2505-10 Section 8.613 Family Support Services Program (FSSP) Rules rewrite	Community Living Office	Revision	C.R.S. 25.5-10-306		Adopt clearer rules governing the administration of the Family Support Services Program. Rules to address the categories of services, the "most in need" criteria for eligibility, and strengthen billing methods for better auditing.	All Community Centered Boards participate in the FSSP and will be impacted by the new rules. Negligible fiscal impact as most of the new rules simply put in place better tracking and auditing methods.	December 2016
February 2017	10 CCR 2505-10 Section 8.500 & 8.600 Overall Language Cleanup	Community Living Office	Revision	HB13-1314, codified at C.R.S. 25.5-10-101		Update the citations and references in the rules to show HCPF and not DHS as administering services for IDD. Update language to conform to federal usage.	This rule change will have negligible impact, it simply re-aligns the citations and language to conform to present usage. It will positively affect both CCBs, providers, and participants by making the rules easier to follow and consistent.	February 2017
January 2017	10 CCR 2505-10 Section 8.500	Community Living Office	Revision	SB 16-38, codified at C.R.S. 25.5-10-		Subjects CCBs to the Local Government	This rule impacts all 20 CCBs. All CCBS	January 2017

	Community Centered Board (CCB) Transparency			209		Audit Law, requires yearly audits and has posting requirements for all meetings of the boards of directors and CCB financials.	are required to complete audits and comply with board of directors public notice requirements.	
November 2016	Mistreatment, Abuse, Neglect, Exploitation (MANE) and Undue Influence	Community Living Office	New	HB15-109 and HB16-1394, codified at C.R.S. 25.l5-10-202		Adopt and modify definitions of MANE and Undue Influence to remain consistent with statutory changes.	The bill expands the number of mandatory reporters for MANE incidents. This will enhance protections for all at-risk adults in services. No direct impact on HCPF other than clearer definitions of incidents. Bill requires criminal reports and reports to the Adult Protective Services division within DHS.	November 2016

2016

Regulatory Agenda Report

COLORADO
Department of Health Care Policy & Financing

Overview

Pursuant to Colo. Rev. Stat. §2-7-203(4), the Department of Health Care Policy and Financing submits the following 2016 Regulatory Agenda Report. Pursuant to statutory requirements concerning the Department's Regulatory Agenda, this Regulatory Agenda Report details the results of the past year's rules review activity, including the results of mandatory rule reviews conducted under Colo. Rev. Stat. §24-4-103.3(4) as part of the Department's "Regulatory Efficiencies Reviews."

This report includes the following items:

- "Rulemaking included in 2016 Regulatory Agenda," providing an update of rules included in the Department's 2016 Regulatory Agenda (filed on November 1st, 2015)
- "Results of Mandatory Rules Review," providing a summary of the activities and outcomes associated with the Department's mandatory rule reviews conducted under Colo. Rev. Stat. §24-4-103.3(4)
- "Unplanned Rulemaking", summarizing rule activity that was not neither part of mandatory regulatory efficiency review nor part of the Regulatory Agenda.

Rulemaking included in 2016 Regulatory Agenda

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
List of new rules or amendments that the department/ its divisions have reviewed, revised, or adopted in the past year	*Within the Department, what sub-group is responsible for the rule?*		*The statutory or other basis for adoption of the proposed rule*	*The purpose of the proposed rule*	*Listing of persons or parties that may be affected positively or negatively by the rule*	*Select one of the following options: (a) adopted (include date of adoption), (b) not adopted, (c) withdrawn, or (d) ongoing*	*Consider including critical outcomes, milestones, etc.*
MSB 15-10-09-A	Long Term Services and Supports Division	Revision	C.R.S. 25.5-6-1102(6)	Revision to the Medical Assistance Long-Term Services and Supports Rule Concerning Consumer Directed	Clients utilizing CDASS through the Agency with Choice model will be required to transition to	Adopted – February 2016	

				Attendant Support Services, Section 8.510	the Fiscal Employer Agent model (F/EA).		
MSB 16-03-08-A	Special Financing Division	Revision	C.R.S. 25.5-6-202 and C.R.S. 25.5-6-203	Revision to the Medical Assistance Provider Fee Financing Nursing Facility Rule Concerning Rate Effective Date, Section 8.443.13	Class I Nursing Facilities	Adopted – May 2016	
MSB 16-01-30-A	Long Term Services and Supports Division	Revision	C.R.S. 25.5-6-307, C.R.S. 25.5-6-606, C.R.S. 25.5-6-704, C.R.S. 25.5-6-1303	Revision to the Medical Assistance Home and Community Based Services Home Modification Benefit Rule, Section 8.493	Persons who utilize the Home Modification benefit in the Elderly, Blind, and Disabled waiver, the Brain Injury waiver, the Community Mental Health Supports waiver, and the Spinal Cord Injury waiver	Adopted – June 2016	
MSB 16-03-22-B	Long Term Services and Supports Division	Revision	42 C.F.R. §1396n(c), 42 C.F.R. §435.726	Revision to the Medical Assistance Home and Community Based Services Rule Concerning the Supportive Living Program Post Eligibility Treatment of Income (PETI), Section 8.515.85	Persons who receive residential SLP services through the BI waiver and have income between 100% and 300% of SSI	Adopted - August 2016	

MSB 16-07-14-A	Long Term Services and Supports Division	Revision	C.R.S. 25.5-6-303	Revision to the Medical Assistance Home and Community Based Services for Elderly Blind and Disabled Rule Concerning Non-Medical Transportation, Section 8.494	Individuals who will be affected by this rule are individuals who use the NMT service.	Adopted – September 2016	

Results of Mandatory Rules Review

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
List of new rules or amendments that the department/ its divisions have reviewed, revised, or adopted in the past year	*Within the Department, what sub-group is responsible for the rule?*	*The statutory or other basis for adoption of the proposed rule*		*Y/N*	*Y/N - if yes, how many rules?*	*Y/N*	*If date is not yet identified, label as "pending"*
10 CCR 2505-10 Section 8.011 General Exclusions from Coverage	Health Programs Office Operations Section	C.R.S. 25.5-4-105 C.R.S. 25.5-4-205.5 C.R.S. 25.5-4-300.4 C.R.S. 25.5-5-102 C.R.S. 25.5-5-202	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.012 Providers Prohibited from Collecting Payment from Recipients	Program Integrity	C.R.S. §§25.5-4-301(1)(a)(I),(II), and II.5)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.013 Out Of State	Health Programs Office Benefits Section	42 CFR 431.52	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.014 Non Emergent Medical Transportation	Provider Relations and Dental	42 CFR §431.53 Assurance of transportation.	September 2016	N	N	N	NA
10 CCR 2505-10 Section 8.015 Electronic Health Record Incentive Program	Provider Payment Division	42 CFR 495	September 2016	N	N	N	NA

10 CCR 2505-10 Section 8.040 Recoveries from Providers	Program Integrity	C.R.S. §25.5-4-301	September 2016	N	N	N	NA
10 CCR 2505-10 Section 8.040.1 Enrollment of Providers	Fiscal Agent Operations	42 CFR 455 Subpart E	September 2016	N	N	N	NA
10 CCR 2505-10 Section 8.040.1.5 Nature of Department's agreement with Health Care Provider's	Fiscal Agent Operations	42 CFR 431.107	September 2016	N	N	N	NA
10 CCR 2505-10 Section 8.040.2 Claim Submission	Fiscal Agent Operations	42 CFR 447 Subpart A	September 2016	N	N	N	NA
10 CCR 2505-10 Section 8.041 Claim Reimbursement and status for National Correct Coding Initiative (NCCI)	Fiscal Agent Operations	"Mandatory State Use of National Correct Coding Initiative (NCCI)", of the Patient Protection and Affordable Care Act of 2010 (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), which together are referred to as the "Affordable Care Act."	September 2016	N	N	N	NA
10 CCR 2505-10 Section 8.042 Utilization of a Cash System of Accounting	Controller Division	25.5-4-201 and 25.5-8-108 (5)	October 2016	N	N	Y	Pending
10 CCR 2505-10 Section 8.043 Timely Filing	Fiscal Agent Operations	25.5-4-204(2) C.R.S.	September 2016	N	N	N	NA

		42 CFR 447					
10 CCR 2505-10 Section 8.049 Reconsideration/Appeal of Adverse Administrative Action	Fiscal Agent Operations	25.5-4-204(2) C.R.S.	September 2016	N	N	N	NA
10 CCR 2505-10 § 8.050 Provider Appeals	Legal Division	42 C.F.R. § 447.253(e)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 § 8.057 Recipient Appeals	Legal Division	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.058 Request for Prior Authorization	Health Programs Office Operations Section	SSA 1902(a)(30)(A) CRS 25.5-4-401	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.061 Use of Other Resources in The Provision of Medical Assistance Benefits	Benefits Coordination Section	C.R.S. § 25.5-4-209	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.062 Social Security Medicare Benefits	Benefits Coordination Section	42 U.S.C. § 1396a(a)(10)(E)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.063 Medical Assistance Estate Recovery	Benefits Coordination Section	C.R.S. § 25.5-4-302	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.064 Data Provision and Claims Requirements	Fiscal Agent Operations	25.5-4-204(2) C.R.S.	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.065 Recovery of Medical Assistance Overpayments	Audit Information Management Section	42 CFR 433.316	September 2016	Y	Y	N	Pending

10 CCR 2505-10 Section 8.066 Health Insurance Buy-In	Benefits Coordination Section	C.R.S. § 25.5-4-210	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.070 Misutilization, Fraud, or Abuse	Audit Information Management Section	31.U.S.C. §§3729-3733	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.075 Client Over-Utilization Program	Health Programs Office Operations Section	42 CFR 456.3 42 CFR 431.54(e)-(f) C.R.S. 25.5-5-102 C.R.S. 25.5-5-202(3) C.R.S. 25.5-5-316	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.076 Program Integrity	Program Integrity	C.R.S. §§25.5-4-301(2) and (3)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.079 Quality Improvement	Quality and Health Improvements Unit	C.R.S. 25.5-5-407.5	March 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.080 MEDICAID ELIGIBILITY QUALITY CONTROL	Eligibility Claim Review Section	42 CFR 431.810	August 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.090 Medicaid Claims processing and Third Party Liability Quality Control	Benefits Coordination Section	42 U.S.C. § 1396a(a)(25)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.500 HOME AND COMMUNITY BASED SERVICES FOR THE DEVELOPMENTALLY DISABLED (HCB-DD) WAIVER	Intellectual and Developmental Disabilities Division	HB 13-1314, codified at C.R.S. 25.5-10-101	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.500.90 SUPPORTED	Intellectual and Developmental	HB 13-1314, codified at C.R.S. 25.5-10-101	September 2016	Y	Y	N	Pending

LIVING SERVICES WAIVER (SLS)	Disabilities Division						
10 CCR 2505-10 Section 8.503 503 CHILDREN'S EXTENSIVE SUPPORT WAIVER PROGRAM (CES)	Intellectual and Developmental Disabilities Division	HB 13-1314, codified at C.R.S. 25.5-10-101	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.504 Home and Community Based Services Pediatric Hospice Waiver	Long-Term Services and Supports Division	C.R.S. 25.5-5-305	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.506 Children's Home and Community Based Services Waiver Program	Long-Term Services and Supports Division	C.R.S. 25.5-6-901	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.508 Children's Habilitation Residential Program	Long-Term Services and Supports Division	C.R.S. 25.5-5-306	August 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.509 Home and Community Based Services for Community Mental Health Supports	Long-Term Services and Supports Division	C.R.S. 25.5-6-607	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.510 Consumer Directed Attendant Support Services	Long-Term Services and Supports Division	C.R.S. 25.5-6-1101	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.515 Home and Community Based Services for Persons with Brain Injury	Long-Term Services and Supports Division	C.R.S. 25.5-1-303	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.517 Home and	Long-Term Services and Supports Division	C.R.S. 25.5-6-301	July 2016	Y	Y	N	Pending

Community Based Services for Persons							
10 CCR 2505-10 Section 8.518 Consumer Directed Care for the Elderly	Long-Term Services and Supports Division	Repealed September 1, 2016	July 2016	N	N	N	NA
10 CCR 2505-10 Section 8.519 Home and Community Based Services for Children with Autism Waiver	Long-Term Services and Supports Division	C.R.S. 25.5-6-801	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.520 Home Health Services	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.525 Services Requirements	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.526 Provider Agency Requirements	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.527 Prior Authorization	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.528 Reimbursement	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.529 Post-Payment Review	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.530 Denial, Termination, or Reduction in Services	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.540 Private Duty Nursing Services	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(n)	September 2016	Y	Y	N	Pending

10 CCR 2505-10 Section 8.550 Hospice Benefit	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(p)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.551 Consumer Directed Attendant Support	Long-Term Services and Supports Division	Repealed February 1, 2014	July 2016	N	N	N	NA
10 CCR 2505-10 Section 8.552 In-Home Support Services	Long-Term Services and Supports Division	C.R.S. 25.5-6-1201	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.553 Community Transition Services	Long-Term Services and Supports Division	C.R.S. 25.5-6-307	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.555 Colorado Choice Transitions (CCT), A Money Follows the Person Demonstration	Long-Term Services and Supports Division	Money Follows the Person Federal Authorization Section 6071 of the Deficit Reduction Act of 2005 Money Follows the Person Federal Authorization Section 2403 of the Patient Protection and Affordable Care Act	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.560 Clinic Services Certified Health Agency	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.561 Clinic Services Certified Health Agency – Requirements for Certification	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	N	Y	Y	Pending
10 CCR 2505-10 Section 8.562 Clinic Services Certified Health	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	N	Y	Y	Pending

Agency – Requirements for participation							
10 CCR 2505-10 Section 8.563 Clinic Services Certified Health Agency – Benefits and Limitations	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	N	Y	Y	Pending
10 CCR 2505-10 Section 8.564 Clinic Services Certified Health Agency – Billing Procedures	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	N	Y	Y	Pending
10 CCR 2505-10 Section 8.565 Clinic Services Certified Health Agency – Reimbursement	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	N	Y	Y	Pending
10 CCR 2505-10 Section 8.566 Clinic Services Certified Health Agency – Appeals	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	N	Y	Y	Pending
10 CCR 2505-10 Section 8.567 Clinic Services Certified Health Agency – Certified Health Agency/Physician relationship	Health Programs Office Benefits Section	C.R.S. 25.5-5-202(b)	September 2016	N	Y	Y	Pending
10 CCR 2505-10 Section 8.570 Federally Qualified Health Centers	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(m)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.580 Oxygen and Oxygen Equipment	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.585 Oxygen, Oxygen Equipment, and Supplies	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(f)	September 2016	Y	Y	N	Pending

10 CCR 2505-10 Section 8.590 Durable Medical Equipment and Disposable Medical Supplies	Pharmacy Unit	42 CFR §440.1, 42 U.S.C. 1396d(a)	April 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.700 Federally Qualified Health Centers	Payment Reform Section	25.5-5-102(m)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.715 Breast and Cervical Cancer Program	Provider Relations and Dental	Public Law 106-354	August 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.726 Teen Pregnancy Prevention Pilot Program	Health Programs Office Benefits Section	C.R.S. 25.5-5-601 - 605	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.730 Family Planning Services	Health Programs Office Benefits Section	SSA Section 1905(a)(4)(C) and 1902(a)(10)(C) C.R.S. 25-1.5-101, C.R.S. 25-6-101-103, C.R.S. 25-6-201-207, C.R.S. 25-6-301-302, C.R.S. 25.5-5-102	July 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.740 Rural Health Clinics	Health Programs Office Benefits Section	C.R.S. 25.5-5-102(i)	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.745 Special Connections	Health Programs Office Benefits Section	C.R.S. 25.5-5-312	August 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.746 Outpatient Substance Abuse Treatment	Health Programs Office Benefits Section	C.R.S. 25.5.-5-202(1)(s)(I)	August 2016	N	N	N	NA
10 CCR 2505-10 Section 8.747 Screening, Brief Intervention and	Health Programs Office Benefits Section	C.R.S. 25.5-202(1)(u)(I)	August 2016	Y	Y	N	Pending

Referral to Treatment Services							
10 CCR 2505-10 Section 8.748 Prenatal Plus Program	Health Programs Office Benefits Section	42 CFR 440.210	August 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.749 Nurse Home Visitor Program	Health Programs Office Benefits Section	C.R.S. 26-6.4-104	August 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.750 Community Mental Health Center/Clinic	Behavioral Health and Managed Care Section	C.R.S. 25.5-5-301(2)(a)	August 2016	N	N	N	NA
10 CCR 2505-10 Section 8.754 Client Co-Payment	Health Programs Office Benefits Section	C.R.S. 25.5-4-209(1)(b)	August 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.760 Targeted Case Management Services	Intellectual and Developmental Disabilities Division	HB 13-1314, codified at C.R.S. 25.5-10-101	September 2016	Y	Y	N	Pending
10 CCR 2505-10 Section 8.765 Services for Clients in Psychiatric Residential Treatment Facilities or Residing in Residential Child Care Facilities as Defined Below	Health Programs Office Benefits Section	C.R.S. 25.5-5-306	August 2016	Y	Y	N	Pending

Unplanned Rulemaking

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
List of new rules or amendments that the department/ its divisions have reviewed, revised, or adopted in the past year	*Within the Department, what sub-group is responsible for the rule?*		*The statutory or other basis for adoption of the proposed rule*	*The purpose of the proposed rule*		*Listing of persons or parties that may be affected positively or negatively by the rule*	*Select one of the following options: (a) adopted (include date of adoption), (b) not adopted, (c) withdrawn, or (d) ongoing*	*Consider including critical outcomes, milestones, etc.*
MSB 15-07-08-D	Eligibility Determination Division	Revision	42 U.S.C. § 1396a, p and r-5	Revision to the Medical Assistance Health Information Office Eligibility Rule Concerning Long-Term Care Medical Eligibility, Section 8.100.7	October 2015	Long-Term Care Medical Assistance covered groups	Adopted October 2015	
MSB 15-06-16-A	Long Term Services and Supports Division	Revision	45 CFR §§ 162.1000 & 162.1002	Revision to the Medical Assistance Home and Community Based Services for Community Mental Health Supports, Section 8.505.15 and Home and Community Based Services for Persons with Brain Injury, Section 8.515.3	October 2015	Clients on the BI and CMHS waivers	Adopted October 2015	

MSB 15-08-25-A	Payment Reform Section	Revision	42 U.S.C. § 1396a(bb)	Revision to the Medical Assistance Payment Reform Rule Concerning Federally Qualified Health Centers – Definitions, Section 8.700.1	November 2015	Medicaid members that receive medical services at FQHCs	Adopted November 2015	
MSB 15-01-13-A	Long Term Services and Supports Division	Revision	42 U.S.C. §1396n(c)	Revision to the Medical Assistance Long Term Services and Supports Rule Concerning Children's Home and Community Based Services Waiver, Section 8.506	November 2015	The families of children living at the home of their parents/guardians and that are at risk for placement in an institutional setting	Adopted November 2015	
MSB 15-02-09-A	Long Term Services and Supports Division	Revision	42 U.S.C. §1396n(c)	Revision to the Medical Assistance Home and Community Based Services for Persons with Brain Injury Rule Concerning Independent Living Skills Training (ILST), Section 8.516.10	November 2015	Clients in the Brain Injury waiver	Adopted November 2015	
MSB 15-07-08-C	Health Programs Office Operations Section	Revision	Social Security Act §1905(a)(4)(B) and §1905(r)	Revision to the Medical Assistance Health Programs Office Benefits Management Section Rule Concerning Pediatric Personal Care, Section 8.535	December 2015	Medicaid clients under 21 years of age, as well as providers of Pediatric Personal Care services	Adopted December 2015	

MSB 15-05-27-E	Program Innovation Section	Revision	42 CFR 440.230(b); 42 CFR 440.60(a); and 42 CFR 440.130(c)	Revision to the Medical Assistance Health Programs Benefits Management Rule Concerning Physician Services, Section 8.200	February 2016	Colorado Medicaid Members	Adopted February 2016	
MSB 15-10-29-A	Long Term Services and Supports Division	Revision	25.5-6-303, C.R.S. (2015)	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Adult Day Services, Section 8.491	February 2016	individuals who attend Adult Day Centers on the LTSS Waivers	Adopted February 2016	
MSB 15-10-19-A	Health Programs Office Operations Section	Revision	Social Security Act §1905(a)(2)(B) and §1902(bb)	Revision to the Medical Assistance Health Programs Rule Concerning Rural Health Clinics, Reimbursement, Section 8.740.7.A.	February 2016	Colorado Medicaid-eligible women of childbearing age residing in areas served by RHCs	Adopted February 2016	
MSB 15-10-27-A	Special Financing Division	Revision	25.5-3-404, C.R.S. (2015)	Revision to the Medical Assistance Special Financing Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors, 10 CCR 2505-10, Section 8.960.	March 2016	clarify definitions only and does not change services or costs under the current program	Adopted March 2016	
MSB 15-11-20-A	Payment Reform Section	Revision	42 C.F.R. 412	Revision to the Medical Assistance Financial Office Managed Care Rates Hospital Services Rule Concerning	March 2016	There should be no ill-effects of this rule change since APR-DRGs were implemented in a	Adopted March 2016	

				Definition for Trim Point Day, Section 8.300.1		budget neutral manner		
MSB 15-05-27-E	Program Innovation Section	Revision	42 CFR 440.230(b); 42 CFR 440.60(a); and 42 CFR 440.130(c)	Revision to the Medical Assistance Health Programs Benefits Management Rule Concerning Physician Services, Section 8.200	March 2016	Colorado Medicaid members	Adopted March 2016	
MSB 16-02-22-A	Health Information Office	Revision	42 CFR § 455 (b) and (e)	Revision to the Medical Assistance Provider Payment Division Rule Concerning Provider Screening, Section 8.125	May 2016	providers	Adopted May 2016	
MSB 16-02-22-D	Special Financing Division	Revision	42 CFR Section 433.68 42 U.S.C. Section 1396b(w)	Revision to the Medical Assistance Special Financing Division Rule Concerning Hospital Provider Fee Collection and Disbursement, Section 8.2000, et seq.	May 2016	Colorado hospitals	Adopted May 2016	
MSB 16-02-22-C	Eligibility Determination Division	Revision	Section 214 of the Children's Health Insurance Program Reauthorizati on Act of 2009 (CHIPRA) which amends section 2107 of the Act, codified at 42	Revision to the Medical Assistance Eligibility Rule Concerning Section 214 of the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA) at Section 8.100.3.G and 8.100.4.G	May 2016	children and pregnant women who are lawfully residing and who have not met 5-year waiting period	Adopted May 2016	

			U.S.C 1396b(v)(4)(A)					
MSB 16-02-25-A	Long Term Services and Supports Division	Revision	42 U.S.C. §1396n(c)	Revision to the Medical Assistance Home and Community Based Services Rule Concerning Supported Living Services, Section 8.515.85	May 2016	Persons who utilize SLP services through the BI waiver	Adopted May 2016	
MSB 16-02-22-B	Eligibility Determination Division	Revision	42 CFR §435.603, Section 1902(e)(14) of the Social Security Act	Revision to the Medical Assistance Eligibility Rule Concerning the Use of Annualized Income at Sections 8.100.1 and 8.100.4	May 2016	individuals who are applicants/beneficiaries	Adopted May 2016	
MSB 16-02-22-A	Health Information Office	Revision	42 CFR § 455 (b) and (e)	Revision to the Medical Assistance Provider Payment Division Rule Concerning Provider Screening, Section 8.125	May 2016	providers that are enrolled in Medicaid	Adopted May 2016	
MSB 15-12-18-A	Health Programs Office Operations Section	Revision	42 CFR 440.230(d)	Revision to the Medical Assistance Program Integrity Rule Concerning the Definition of Medical Necessity, Section 8.076	July 2016	clients, providers, and stakeholders	Adopted July 2016	
MSB 16-08-09-A	Behavioral Health Unit	Revision	42 CFR 431.244(f)(2) HB 16-1277	Revision to the Medical Assistance Delivery System & Payment Section Rule Concerning	August 2016	Medicaid applicant's and recipients	Adopted August 2016	

				Recipient Appeals, Section 8.057				
MSB 16-04-13-A	Long Term Services and Supports Division	Repeal	25.5-6-1102(6), C.R.S. (2015) HB 05-1243	Revision to the Medical Assistance Office of Community Living Rule Concerning Consumer Directed Care for the Elderly Section 8.518	August 2016	There are no classes of persons who will be affected by the repeal of this rule. The program that it regulated was discontinued in 2009	Adopted August 2016	
MSB 16-05-10-A	Eligibility Determination Division	Revision	42 CFR 435.119(c)(1)(2); 435.4 & 435.116	Revision to the Medical Assistance Rule Concerning Parents and Caretaker Relatives at Section 8.100.1 & 8.100.4.G	August 2016	caretakers will not be eligible to receive MAGI-Adult Expansion unless their dependent child is receiving benefits under Medicaid, Child Health Plan Plus, through a private health plan purchased through Connect for Health Colorado, or other minimum essential coverage	Adopted August 2016	
MSB 16-07-18-A	Special Financing Division	Revision	SHO #16-007; 25.5-3-101 through 25.5-3-111, C.R.S. (2015)	Revision to the Medical Assistance Colorado Indigent Care Program Rule Concerning Halfway House Residents, Section 8.904.F	September 2016	halfway house residents	Adopted September 2016	

MSB 16-01-20-A	Special Financing Division	Revision	24-76.5-101 et al., C.R.S. (2015) and 25.5-3-101 through 25.5-3-111, C.R.S. (2015)	Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Establishing Lawful Presence, Section 8.904.C	September 2016	Colorado Indigent Care Program (CICP) applicants 18 years of age or older	Adopted September 2016	
MSB 16-06-28-B	Health Programs Office Operations Section	Revision	42 U.S.C. § 1396d(a)(2)(A) ; 42 C.F.R. § 440.230	Revision to the Medical Assistance Program Rule Concerning Outpatient Fee-For-Service Substance Use Disorder Treatment Services, Section 8.746	September 2016	Medicaid members	Adopted September 2016	
MSB 16-04-28-A	Long Term Services and Supports Division	Revision	25.5-6-201, C.R.S. (2015)	Revision to the Medical Assistance Nursing Facility Rule Concerning Fair Rental Allowance For Capital-Related Assets, 10 CCR 2505-10, Section 8.443.9	September 2016	Medicaid members	Adopted September 2016	
MSB 16-05-31-A	Pharmacy Unit	Revision	SB 16-027; 25.5-2.5-102 through 25.5-2.5-103, C.R.S. (2015); 25.5-1-104, C.R.S. (2015)	Revision to the Medical Assistance Pharmacy Rule Concerning Medicaid Option For Prescribed Drugs By Mail , Section 8.800	September 2016	Medicaid members who take maintenance medications	Adopted September 2016	
MSB 16-06-20-A	Payment Reform Section	Revision	42 U.S.C. 1396a(a)(30)(	Revision to the Medical Assistance Rates Section Rule	September 2016	Hospitals	Adopted September 2016	

			A); 42 CFR 447.321	Concerning Payments For Outpatient Hospital Services, Section 8.300.6				

Departmental Regulatory Agendas

Department

Department of Natural Resources

2017

Regulatory Agency

COLORADO

Department of Natural Resources

Overview

Colorado Department of Natural Resources submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes **Colorado Park's and Wildlife** DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)* **(Step 1)**	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Primary Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date (Step 2)**
November, 2016	2 CCR-405-8 Aquatic Nuisance Species	Colorado Parks and Wildlife	Revision and New Rules	33-10.5-107		Adopting standardized ANS regulations as proposed by the Western Regional Panel	Boaters	January-2017
November, 2016	2 CCR-406-0 General Provisions	Colorado Parks and Wildlife	Revision	33-1-101(4)		Open annually for all issues	Hunters/Anglers	January-2017

November, 2016	2 CCR-406-2 Big Game	Colorado Parks and Wildlife	Revision	33-1-101(4)		Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons; Lion harvest limits	Hunters	January-2017
January, 2017	2 CCR-405-4 Snowmobile Regulations	Colorado Parks and Wildlife	Revision	33-14-102		Open annually for all issues	Snowmobile Users	March-2017
January, 2017	2 CCR-406-3 Furbearers and Small Game, Except Migratory Birds	Colorado Parks and Wildlife	Revision	33-1-101(4)		Open for annual review including all issues, except turkey	Hunters	March-2017
January, 2017	2 CCR-406-5 Small Game - Migratory Birds	Colorado Parks and Wildlife	Revision	33-1-101(4)		Open annually for all issues	Hunters	March-2017
January, 2017	2 CCR-406-9 Division Properties	Colorado Parks and Wildlife	Revision	33-1-107		Open annually for all issues	Hunters/Anglers	March-2017
January, 2017	2 CCR-406-11 Wildlife Parks and Unregulated Wildlife	Colorado Parks and Wildlife	Revision	33-1-101(2)		Open annually for all issues including unregulated wildlife requests	General Public	March-2017
March, 2017	2 CCR-406-2 Big Game	Colorado Parks and Wildlife	Revision	33-1-101(4)		Annual big game clean-up	Hunters	March-2017
May, 2017	2 CCR-406-2 Big Game	Colorado Parks and Wildlife	Revision	33-1-101(4)		Annual changes to deer, elk, pronghorn, bear, and moose quotas	Hunters	May-2017
June, 2017	2 CCR-405-1 Parks and Outdoor Rec Lands	Colorado Parks and Wildlife	Revision	33-10-101		Open annually for all issues	Park Users	September-2017
June, 2017	2 CCR-405-2 Boating	Colorado Parks and Wildlife	Revision	33-13-101		Open annually for all issues	Boaters	September-2017

June, 2017	2 CCR-405-5 Off-Highway Vehicles	Colorado Parks and Wildlife	Revision	33-14.5-107		Open annually for all issues	OHV Users	September-2017
June, 2017	2 CCR-405-6 Procedural Rules	Colorado Parks and Wildlife	Revision/ Repeal	33-1-101(4)	X	Open for regulatory efficiency review	Hunters/Park Users	September-2017
June, 2017	2 CCR-405-7 Passes, Permits and Registrations	Colorado Parks and Wildlife	Revision	33-12-100.2		Open annually for all issues	Park Users	September-2017
June, 2017	2 CCR-405-8 Aquatic Nuisance Species	Colorado Parks and Wildlife	Revision	33-10.5-107		Open annually for all issues	Boaters	September-2017
June, 2017	2 CCR-406-8 Field Trials and Training of Hunting Dogs	Colorado Parks and Wildlife	Revision/ Repeal	33-1-101(4)	X	Open for regulatory efficiency review	Hunters	September-2017
June, 2017	2 CCR-406-12 Lake Licenses	Colorado Parks and Wildlife	Revision/ Repeal	33-4-102(2)(e)	X	Open for regulatory efficiency review	Anglers	September-2017
June, 2017	2 CCR-406-17 Game Damage	Colorado Parks and Wildlife	Revision/ Repeal	33-3-102	X	Open for regulatory efficiency review	Agricultural Operators	September-2017
September, 2017	2 CCR-405-3 River Outfitters	Colorado Parks and Wildlife	Revision	33-32-101		Open annually for all issues	River Outfitters	November-2017
September, 2017	2 CCR-406-1 Fishing	Colorado Parks and Wildlife	Revision	33-1-101(4)		Open annually for all issues	Anglers	November-2017
September, 2017	2 CCR-406-2 Big Game	Colorado Parks and Wildlife	Revision	33-1-101(4)		Annual changes to lion harvest quotas	Hunters	September-2017
September, 2017	2 CCR-406-2 Big Game	Colorado Parks and Wildlife	Revision	33-4-102 (1)(IV)(b)		Open annually for CPI adjustments to nonresident big game license fees	Hunters	November-2017

September, 2017	2 CCR-406-3 Furbearers and Small Game, Except Migratory Birds	Colorado Parks and Wildlife	Revision	33-1-101(4)		Annual changes to turkey seasons	Hunters	November-2017
September, 2017	2 CCR-406-15 License Agents	Colorado Parks and Wildlife	Revision	33-4-101		Open annually for CPI adjustments to commission rates for license agents	License Agents	November-2017
November, 2017	2 CCR-406-0 General Provisions	Colorado Parks and Wildlife	Revision	33-1-101(2)		Open annually for all issues	Hunters/Anglers	January-2018
November, 2017	2 CCR-406-2 Big Game	Colorado Parks and Wildlife	Revision	33-1-101(4)		Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons	Hunters	January-2018
November, 2017	2 CCR-406-3 Furbearers and Small Game, Except Migratory Birds	Colorado Parks and Wildlife	Revision	33-1-101(4)		Annual changes to turkey quotas	Hunters	November-2017

The following constitutes **Colorado Oil and Gas Conservation Commission** DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
Unknown	Wildlife Mapping Rulemaking involving the Greater sage-grouse	COGCC	New	s. 34-60-105(1), -106(2)(d), C.R.S.	X	To update maps showing, and spatial data identifying, the individual and combined extents of restricted surface occupancy areas and	Industry; surface owners, environmentalists, ecologists, and sportsmen/women.	Unknown

						sensitive wildlife habitat areas for greater sage-grouse and address any rule changes necessary based on COGCC's 1200 Series regulatory efficiency review in 2016.		
Second Quarter	318A Revisions	COGCC	Revision	s. 34-60-105(1), -106(2)(a), (c), (d), C.R.S.		To improve functionality of rules for the efficient development of the Greater Wattenberg Area.	Industry, mineral owners, surface owners.	Unknown
Unknown	900 Series Update	COGCC	Revision	s. 34-60-105(1), -106(2), C.R.S.	X	To update the rules and review of Table 910-1 standards.	Industry, environmentalists, surface owners.	Unknown
Unknown	400 Series Update	COGCC	Revision	s. 34-60-105(1), -106(2), C.R.S.	X	To address any rule changes necessary based on COGCC's 400 Series regulatory efficiency review in 2017.	Industry.	Unknown
Unknown	500 Series Update	COGCC	Revision	s. 34-60-105(1), -106(2), -108, C.R.S.	X	To address any rule changes necessary based on COGCC's 500 Series regulatory efficiency review in 2017.	Industry, participants in COGCC hearings.	Unknown
Unknown	Well Category Determination Procedures Update	COGCC	Revision	s. 34-60-105(1), -106(2), C.R.S.	X	To address any rule changes necessary based on COGCC's Well Category Determination Procedures regulatory efficiency review in 2017.	Industry.	Unknown

The following constitutes **Colorado Division of Reclamation, Mining and Safety** DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
2017 Calendar Year	2 CCR 407-2, as well as numerous sections of Rules and Regulations of the Colorado Mined Land Reclamation Board for Coal Mining previously identified by OSM* as requiring revision.	DRMS/Coal Program	Revisions	34-33-108(1), C.R.S., and 30 C.F.R. §§ 732.17, 733.12 and 733.13	X	Response to Federal 732 letters previously received from OSM. Minor edits and corrections to errors and omissions, as well as substantive amendments and revisions to several sections of the rules.	Coal Mine industry, interested citizens, environmental groups, and local jurisdictions	Pending approval by Federal Solicitor, and publication in the Federal Register
February 2017	2 CCR 407-1 Rule 1, 5 & 7 of the Hard Rock/Metal Mining Rules	DRMS/MLRB/ Minerals	Revision and Repeal	C.R.S. 34-32-101	X	Remove outdated rules associated with Custom Mills, Clean up language in Prospecting Section and add clarifying language to Rule 7 addressing surety releases and reductions for Designated Mining Operations	Mining Community and Environmental Community	May, 2017

The following constitutes **Colorado Division of Water Resources** DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
Ongoing	2 CCR 402-1 Dam Safety and Construction Rules	Division of Water Resources	Revisions	Sections 37-87-102, 105, 37-80-102(k), 24-4-103	X	Contemplating amending rules in 2017 to modify spillway requirements and clarify extreme precipitation estimate methodologies	Public at large, dam owners, construction and dam design engineers, FEMA, Homeland Security	October 2017
November 2016	2 CCR 402-3 Adjudicatory Hearings before the Colorado Ground Water Commission	Colorado Ground Water Commission	Revisions	Sections 37-90-111(1)(h), 24-4-131	X	Update and revise rules that govern rule making and adjudicatory hearings with open and clear procedures	Designated Ground Water Management Districts and constituents, water lawyers	May 2017
October 2017	2 CCR 402-6 Denver Basin Rules	Division of Water Resources	Review for revisions	Sections 37-90-137(9)(a), (b) and 37-80-102(1)(g)	X	Conduct review to ensure clear and concise. The rules govern the amounts of water that can be appropriated from the Denver Basin aquifers.	Underlying Denver basin land owners, water users, many front range metro cities, water lawyers, water engineers, water users at large, ground water modelers	Unknown

September 2017	2 CCR 402-7 Statewide Nontributary Rules	Division of Water Resources	Review for revisions	Sections 37-90-137(9)(a), (b) and 37-80-102(1)(g)	X	Governs well permitting of nontributary water outside Denver Basin. The review will be conducted to update the provisions of the rules.	Water users throughout the state, water lawyers, water engineers, ground water modelers	Unknown
November 2016	2 CCR 402-8 Senate Bill 181 Water Quality Coordination Rules)	Division of Water Resources	Review for revisions	Sections 37-80-102(1)(g) & (k), 25-8-202(7)	X	Continue review of procedures on how and when State Engineer implements water quality standards and classifications for discharges to state waters other than permitted point source discharges to surface water and discharges to ground water	Water users throughout the state, Water Quality Control Commission, environmentalist groups, water lawyers, water engineers	Unknown
November 2016	2 CCR 402-9 Fees set and collected by the State Engineer for the Water Data Bank Cash Fund, the Division of Water Resources Publication Cash Fund, and	Division of Water Resources	Review for revisions	Sections 37-80-111.5, 37-80-102(1)(h), 24-72-205, 24-4-103	X	Need to review for consistency and appropriateness	Water users, satellite system users, CWCB, water engineers and firms, public at large, water lawyers	Unknown

	the Satellite Monitoring System Cash Fund							
January 2017	2 CCR 402-10 Rules for Permitting the Development and Appropriation of Geothermal Resources through the use of Wells (Geothermal Rules	Division of Water Resources	Review for revisions	Sections 37-80-102(1)(g)& (k), 37-90-138, 37-90.5-106 thru 108	X	Potential clean up of certain areas may be useful long term dependent upon review.	Water users, specific towns and areas of the state where geothermal resources exist, water resources engineers, geologists, geothermal resource developers, water lawyers, public at large, environmentalists	Unknown
November 2016	2 CCR 402-11 Rules for the Permitting and Use of Waters Artificially Recharged into the Denver Basin (Denver Basin Artificial Recharge Extraction Rules	Division of Water Resources	Review for revisions	Sections 37-80-102(1)(g) & (k), 37-90-138, 37-90-137(9)(d)	X	Continuing review for potential amendments	Water users, water resource engineers including modelers, geologists, cities and users overlying the Denver Basin, water lawyers	Unknown
November 2016	2 CCR 402-14 Rules and Regulations for Administration of Licensing, Financial	Board of Examiners of Water Well & Pump Installation Contractors	Revisions	Section 37-91-104(1)	X	Revise drillers and pump installers, license process, continuing education process and remedial actions.	Public at large, well owners, well construction contractors, water users, pump installers, Colorado	July 2017

	Responsibility, Continuing Education and Remedial Action						Ground Water Assoc., Colorado Well Contractors Assoc.	
November 2016	2 CCR 402-15 Rules and Regulations for Submittal and Evaluation of Interruptible Water Supply Agreements Submitted Pursuant to 37-92-309 C.R.S. (IWSA Rules)	Division of Water Resources	Review for revisions	Sections 37-80-102(1)(g) & (k), 37-92-309(5)	X	Review for possible revisions	Water users of the South Platte Basin, water attorneys, water resource engineers, hydrologists, geologist	Unknown
January 2017	2 CCR 402-17 Rules and Regulations for the Determination of the Nontributary Nature of Ground Water Produced through Wells in Conjunction with the Mining of Minerals (Produced Nontributary Ground Water Rules)	Division of Water Resources	Review for revisions	Sections 37-90-107, 108, 109 and 111	X	Review for potential revisions	Statewide surface and ground water users, environmental interests, water lawyers, water resource engineers, ground water modelers, oil & gas industry. Indian Tribe	Unknown

November 2016	Rules and Regulations for the Management and Control of Designated Ground Water	Colorado Ground Water Commission	Revisions and amendments	Sections 37-90-107, 108, 109 and 111	X	This will involve three separate rulemaking processes. One will be to redefine and clarify artificial recharge, storage and replacement plans. The second will be to amend Rule 5.2.9 to determine the alluvial aquifer and all of the Fan & White River aquifers in the Upper Crow Ck basin over-appropriated. Finally, an overall revision to the complete set of rules will be addressed after the amendments above are complete	Designated ground water basin water users, water lawyers, water resource engineers, local ground water management districts	Spring of 2017 for Rule 5.2.9, Summer of 2017 for artificial recharge rule and final hearing in 2018 for the remaining rules
January 2017	Water Court Rules for the Diversion and Use of Tributary Water in the Arkansas River Basin	Division of Water Resources	Review	Sections 37-80-102(1)(g), 37-80-104, 37-92-501, 37-92-502(5)	X	A review to ensure clear and concise language will take place	Surface and ground water users on the Arkansas River, State of Kansas, water resource engineers, geologists, hydrologists, water lawyers, ground water modelers	Unknown

February 2017	Water Court Rules for Ground Water Withdrawals in Water Division 3 affecting the Rate or Direction of movement of water in the Confined aquifer	Division of Water Resources	Review	Sections 37-90-137(12)(b)(I), C.R.S. (2003), and section 37-92-501, C.R.S.	X	A review to ensure clear and concise language will take place	Surface and ground water users on the Rio Grande and in the San Luis Valley, water resource engineers, geologists, hydrologists, water lawyers, ground water modelers	Unknown
March 2017	Water Court Rules for the Measurement of tributary ground water in the South Platte Basin	Division of Water Resources	Review	Sections 37-80-102(1)(g), 37-80-104, 37-92-501, 37-92-502(5), Title 37, Article 65 (South Platte River Compact	X	A review to ensure clear and concise language will take place.		Unknown
Unknown	Compact Rules Governing Improvements to Surface Water Irrigation Systems in the Arkansas River Basin in Colorado	Division of Water Resources	Review	Sections § 37-80-102(1)(a), § 37-80-104, and § 37-92-501, C.R.S., to ensure compliance with the terms of the Arkansas River Compact, 63 Stat. 145; § 37-69-101, et seq., C.R.S. (Compact	X	A review to ensure clear and concise language will take place.		Unknown
November 2016	Water Court Republican River Compact Rules	Division of Water Resources	New Rules	U.S. Supreme Court in Kansas v. Nebraska & Colorado, Number		The rulemaking will consider the requirement to offset impacts in		January 2017

				126, Original, Sections 37-80-102(1)(a) & 37-80-104		excess of Colorado's apportionment under the Republican River Compact as determined under the Final Settlement Stipulation, and work to ensure that all users of waters accounted for in Colorado's Republican River Compact Accounting have a stake in ensuring ongoing compact compliance		
November 2016	Rules and Regulations concerning HB 16-1228, Agricultural Water Protection Water Right Bill	Division of Water Resources	New Rules	Sections 37-80-123(1)(a) and 37-92-308(12)		This rulemaking is required of the Division of Water Resources under HB 16-1228 to develop rules for substitute supply plans for decreed agricultural water protection water rights per section 37-92-305(19)	Water users in the South Platte and Arkansas River basins.	July 2017
Ongoing	Water Court Rules Governing the Withdrawal of Groundwater in Water Division No. 3	Division of Water Resources	New Rules	SEctions37-80-104 & 37-92-501		Regulation and Use of water withdrawals from the Confined and Unconfined aquifers in the San Luis Valley	Water users in San Luis Valley	Scheduled for 8 week trial beginning in Jan. 2018. Currently negotiating with

								objectors to obtain settlement

The following constitutes **Colorado State Land Board** DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
June, 2017	2 CCR 409-1; State Forest Lands	State Land Board	Revision or Repeal, TBD	§36-7-104; §36-7-201; §24-4-103		Review the rule to determine if the best course of action is to revise or repeal rule to simplify and align the rule with contemporary forest management protocols and resources	Colorado State Forest Service; Beneficiaries of affected land trusts; Jackson and Larimer County governments; State Forest Steering Committee; Colorado Parks and Wildlife; lessees of affected parcels; adjacent landowners to adjacent parcels; Natural Resources stakeholder notification groups	October 2017

Departmental Regulatory Agendas

Department

Department of Labor and Employment

2017

Regulatory Agenda

COLORADO
Department of
Labor and Employment

Overview

The Colorado Department of Labor and Employment (CDLE) submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes CDLE's DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule *(Month, Year)*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Consider including high-level outreach bullets*	**Anticipated Hearing Date**
3/2017	7-CCR 1101-2, Part 5	Unemployment Insurance (UI)	New	8-79-102 (5), C.R.S.		*Establish a pattern of nonresponse to allow an employer's account to be charged for overpayments that are caused by the employer's nonresponsiveness.*	Employers and employer representatives	Feb/March 2017
3/2017	7 CCR 1101-2,	UI	Rev	8-70-115, C.R.S.		*Clarify the factors*	Employers, employer	Feb/March

	Part 17					*considered when classifying a worker*	representatives, and workers Task force developed to draft proposed rules	2017
8/2017	7 CCR 1101-2, Part 2.8.4	UI	Rev	8-73-107 (g), C.R.S.		Adjust the work-search requirements to meet the changing workforce environment and to move in the direction of education and compliance assistance	Claimants and employers	Summer 2017
4/2017	7 CCR 1101-3 Rule 2.5	DOWC	Rev	8-44-112 and 8-46-102	x	Update and adjust the mandatory premium surcharge	Insurers	4/2017
8/17	7 CCR 1101-3 Rule 16 &18	DOWC	Rev	8-42-101(3)	x	Update medical fee schedule	Insurers, medical providers, claimants	8/17
12/17	7 CCR 1101-3 Rule 2.5	DOWC	Rev	8-46-102	x	Update medical treatment guidelines	Insurers, medical providers, claimants	12/17
July 2017	7 CCR 1101-5	Boiler and Pressure Vessel Regulations	Revision	Adopt current codes, clarifying language, formatting changes, primarily cosmetic changes		Adopt current codes, clarifying language, formatting changes, primarily cosmetic changes	Boiler stakeholders – including industry associations, installers, contractors, special inspection agencies	May 2017
February 2017	7 CCR 1101-08	Oil and Public Safety - Conveyance Program	Revision	Address recommendations of Office of State Auditor performance audit – November, 2015 and general rule clean-up	*X*	Address recommendations of Office of State Auditor performance audit – November, 2015 and general rule clean-up	9/22/16 – Advisory Board and other stakeholders 10/13/16 – General stakeholder meeting – participating stakeholders: owners, contractors, inspectors, mechanics	January, 2017
January 2017	7 CCR 1101-14	Oil and Public Safety –	Revision	The amendments adopt the 2015 revisions to the		The amendments adopt the 2015 revisions to the	In addition to the EO5 posting, which contacts all local	August 8, 2016

		Petroleum Program		federal EPA's regulations related to underground storage tanks (USTs). The amendments increase emphasis on properly operating and maintaining UST equipment and will help prevent and detect UST releases. Additionally, updates to sections of Article 1.5 Motor Fuel Dispensing and Product Quality and Article 5 Release Response have also been made.		federal EPA's regulations related to underground storage tanks (USTs). The amendments increase emphasis on properly operating and maintaining UST equipment and will help prevent and detect UST releases. Additionally, updates to sections of Article 1.5 Motor Fuel Dispensing and Product Quality and Article 5 Release Response have also been made.	municipalities and special districts we held stakeholder meetings with industry specialists on the following dates 4/13/16, 4/18/16, 5/16/16 and 6/13/16	
March 2017	7 CCR 1101-15	Oil and Public Safety – Liquefied Petroleum Gas (LPG)	Revision	Adopt current codes, clarifying language, adding weights and measures and additional training requirements for transport drivers		Adopt current codes, clarifying language, adding weights and measures and additional training requirements for transport drivers	In addition to the EO5 posting, which contacts all local municipalities and special districts we will hold stakeholder meetings with industry specialist.	February 2017
January 2017	7 CCR 1101-17	Oil and Public Safety – Retail Hydrogen Fueling	New Rule	The technical requirements of these regulations are based on generally-accepted national and international codes and standards		The technical requirements of these regulations are based on generally-accepted national and international codes and standards governing the minimum levels of	In addition to the EO5 posting, which contacts all local municipalities and special districts we held stakeholder meetings with industry specialists on the following	August 8, 2016

				governing the minimum levels of acceptability for inspections, specifications, shipment notification, record keeping, labeling of containers, use of meters or mechanical devices for measurement, submittal of installation plans and minimum standards for the design, construction, location, installation and operation of retail hydrogen systems		acceptability for inspections, specifications, shipment notification, record keeping, labeling of containers, use of meters or mechanical devices for measurement, submittal of installation plans and minimum standards for the design, construction, location, installation and operation of retail hydrogen systems.	dates 5/9/16 and 6/16/16	
January, 2017	7 CCR 1103-7 Wage Protection Act Rules	Division of Labor Standards and Statistics	Revision	C.R.S. § 8-1-107(2)(p) and § 8-4-101, et seq. (2016) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt rules and regulations pertaining to the implementation of the Wage Protection Act.		The purpose of the proposed amendments to the Wage Protection Act Rules is to supplement and clarify the statutory language and provide a step-by-step guide to the Division's wage complaint process.	• Labor & union organizations • Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities • Business associations and organizations • Internal state agencies	March, 2017
January, 2017	7 CCR 1101-1 Rules of	Division of Labor	Revision	C.R.S. § 8-1-107(2)(p), and § 8-		The purpose of the amendments to the	• Labor & union organizations	March, 2017

	Procedure to the Colorado Labor Peace Act and Industrial Relations Act	Standards and Statistics		3-105 provide the Director of the Division of Labor Standards and Statistics with the authority to adopt rules and regulations pertaining to the Industrial Relations Act and the Labor Peace Act.		Rules of Procedure to the Colorado Labor Peace Act and Industrial Relations Act is to provide administrative rules pertaining to employee and employer relationships, collective bargaining, and unfair labor practices.	• Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities • Business associations and organizations • Internal state agencies	
January, 2017	7 CCR 1103-4 Employment Opportunity Act Rules	Division of Labor Standards and Statistics	Revision	C.R.S. § 8-1-107(2)(p) and § 8-2-126 (2016) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt and amend rules and regulations pertaining to the implementation of the Colorado Employment Opportunity Act.		The purpose of the proposed amendments to the Colorado Employment Opportunity Act Rules is to clarify the hearing procedures under C.R.S. § 8-2-126, and to change the Division's name pursuant to House Bill 16-1323.	• Labor & union organizations • Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities • Business associations and organizations • Internal state agencies	March, 2017
January, 2017	7 CCR 1103-5 Social Media and the Workplace Law Rules	Division of Labor Standards and Statistics	Revision	C.R.S. § 8-1-107(2)(p) and § 8-2-127 (2016) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt and amend rules and regulations		The purpose of the proposed amendments to the Colorado Social Media and the Workplace Law Rules is to clarify the hearing procedures under C.R.S. § 8-2-127, and to change the Division's name	• Labor & union organizations • Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities	March, 2017

				pertaining to the implementation of the Colorado Social Media and the Workplace Law.		pursuant to House Bill 16-1323.	• Business associations and organizations • Internal state agencies	
January, 2017	7 CCR 1103-6 Keep Jobs in Colorado Act Rules	Division of Labor Standards and Statistics	Revision	C.R.S. § 8-1-107(2)(p) and § 8-17-101, et seq. (2016) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt and amend rules and regulations pertaining to the implementation of the Keep Jobs in Colorado Act.		The purpose of the proposed amendments to the Keep Jobs in Colorado Act Rules is to clarify the hearing procedures under C.R.S. § 8-17-101, et seq., and to change the Division's name pursuant to House Bill 16-1323.	• Labor & union organizations • Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities • Business associations and organizations • Internal state agencies	March, 2017
January, 2017	7 CCR 1103-1 Minimum Wage Order Number 33	Division of Labor Standards and Statistics	Revision	EMERGENCY AND PERMANENT RULEMAKING C.R.S. § 8-1-107(2)(p), § 8-6-106, § 8-6-108(2), and § 8-6-109 (2016) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt rules and regulations pertaining to state minimum wage rates and workplace	X	If Amendment 70 passes, to increase the minimum wage rate to $9.30, effective January 1, 2017	• Labor & union organizations • Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities • Business associations and organizations • Internal state agencies	March, 2017

				conditions.				
April, 2017	7 CCR 1103-3 Employment Verification Law Rules	Division of Labor Standards and Statistics	Revision	§ 8-1-107(2)(p), C.R.S., § 8-1-103(3), C.R.S., and § 8-1-111, C.R.S., provide the Director of the Division of Labor Standards and Statistics with the authority to adopt rules and regulations related to employers, employees, and places of employment.		The purpose of the proposed amendments to the Employment Verification Law Rules is to further implement the provisions of § 8-2-122, C.R.S.	• Labor & union organizations • Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities • Business associations and organizations • Internal state agencies	June, 2017
September, 2017	7 CCR 1103-1 Minimum Wage Order Number 34	Division of Labor Standards and Statistics	Revision	C.R.S. § 8-1-107(2)(p), § 8-6-106, § 8-6-108(2), and § 8-6-109 (2016) provide the Director of the Division of Labor Standards and Statistics with the authority to adopt rules and regulations pertaining to state minimum wage rates and workplace conditions.	X	The purpose of Colorado Minimum Wage Order Number 34 is to reflect the new state minimum wage, and make any other necessary and timely changes.	• Labor & union organizations • Non-profit organizations • Advocacy groups • Wage Theft Task Force • National & local law firms and bar associations • Universities • Business associations and organizations • Internal state agencies	November, 2017

Departmental Regulatory Agendas

Department

Department of Regulatory Agencies

2017

Regulatory Agenda

Overview

The Colorado Department of Regulatory Agencies (DORA) submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2017 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes DORA's DRA for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
1	January 2017	CB 1.1 through CB 101.66	Division of Banking	Revision	Title 11, Article 101 Banking Code	Yes	Review efficiency of rules	Colorado state-chartered banks	February 16, 2017
2	February 2017	Trust Company (TC); Public Deposit Protection Act (PDPA)	Division of Banking	Revision	Title 11, Article 109 Trust Companies; Title 11, Article 10.5 Public Deposit Protection Act	Yes	Review efficiency of rules	Colorado state-chartered trust companies and state -chartered banks, Public Deposit Protection Act (PDPA)-state-chartered banks, National banks	May 19, 2017
3	March 2017	Trust Company (TC); Public Deposit Protection Act (PDPA)	Division of Banking	Revision	Title 11, Article 109 Trust Companies; Title 11, Article 10.5 Public Deposit Protection Act	Yes	Review efficiency of rules	Colorado state-chartered trust companies and state -chartered banks, Public Deposit Protection Act (PDPA)-state-chartered banks, National banks	May 19, 2017
4	April 2017	Trust Company (TC); Public Deposit Protection Act (PDPA)	Division of Banking	Revision	Title 11, Article 109 Trust Companies; Title 11, Article 10.5 Public Deposit Protection Act	Yes	Review efficiency of rules	Colorado state-chartered trust companies and state -chartered banks, Public Deposit Protection Act (PDPA)-state-chartered banks, National banks	May 19, 2017
5	Summer/ Fall 2017	Chapter 2, Chapter 3, Chapter 6, Chapter 7	Division of Professions and Occupations- Board of Accountancy	New	§12-2-0101, C.R.S.		Remove outdated education requirements and update other chapters to align with current practices.	Board members, college & university representatives, National Association of State Boards of Accountancy, active licensees, accountancy firms	TBD
6	February/ March 2017	4.9 and any other relevant to subject matter	Division of Professions and Occupations- Board of Licensure for Architects, Professional Engineers, & Professional Land Surveyors	Revision	HB16-1076		Implement HB16-1076 for Oct 2017 renewal.	Licensees	Winter 2016
7	Spring 2017	All board rules	Division of Professions and Occupations- Board of Veterinary Medicine	Revision	§12-64-105(9)(j), C.R.S.		Restructure/renumber according to SOS guidelines.	Consumers, licensees and unlicensed personnel	

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
8	Late Winter/ Spring	III, XIII, XVII, XXIII, XXIV	Division of Professions and Occupations- Colorado Dental Board	III(G), III, XIII, XVII, XXIII, XXIV - Revision	§§ 12-35-107(1)(b), 12-35-128(1)(a)(II)(C), 12-35-128(5), 12-35-129.1(6)(b), 12-35-139(2), 24-4-103, 24-4-103.3, 24-4-105(11), 24-34-102(8)(d), and 24-34-102(8.5), C.R.S.		Amend Rule III(G) to potentially allow other forms of education to count as continuing education; amend Rule XIII in response to statutory changes; amend Rule XVII in response to legal concerns; amend Rule XXIII to allow a fine for not maintaining a PDMP account in addition to not creating one; and amend Rule XXIV in response to statutory changes.	Consumers and licensees	Winter/ Spring 2017
9	February 2017	TBD (new rule)	Division of Professions and Occupations- Colorado Medical Board	New	HB16-1047		Implementation	Professional associations, licensees, consumers, COPIC, healthcare employers, medical school, will convene stakeholders through stakeholder meetings, webinar, open comment and workgroups	February 16, 2017
10	February 2017	800 - Delegation And Supervision Of Medical Services To Unlicensed Health Care Providers	Division of Professions and Occupations- Colorado Medical Board	Revision	§§12-36-104 and 12-36-106(3)l), C.R.S.		Clarify requirements for physicians delegating medical services to unlicensed persons.	Professional associations, licensees, consumers, COPIC, Barber & Cosmetology and medical spa businesses	February 16, 2017
11	Spring 2017	400- Licensure Of And Practice By Physician Assistants	Division of Professions and Occupations- Colorado Medical Board	Revision	§12-36-104 and 12-36-106(5)C.R.S		Review supervision of PA's to determine if regulatory burden outweighs public protection.	Professional associations, licensees, consumers, COPIC, and healthcare employers	May 1, 2017
12	Winter/ Spring 2016	100, 110, 120, 130, 135, 140, 150, 200, 220, 230, 240, 280, 290, 400 and 700	Division of Professions and Occupations- Colorado Podiatry Board	Revision	§12-32-104(1)(a), C.R.S.		Review Rules for grammar, accuracy, clarity and consistency in structure. To also move all rules into one CCR. Currently each Rules exists in its own CCR: 3 CCR: 712-1, 712-2, 712-3, 712-4, 712-10, 712-15, 712-5, 712-6, 712-11, 712-12, 712-13, 712-8, and 712-9. Additionally, implement statutory change for supervision of physician assistants in Rule 400.	Consumers, applicants, podiatrists and residents or fellows training in approved residency programs	Winter/ Spring 2016

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
13	Summer 2017	TBD (new rule)	Division of Professions and Occupations- Colorado State Board of Landscape Architects	TBD	2017 Sunset Review § 12-45-119, C.R.S.		Address any needed changes to the rules based on the outcome of the 2017 legislative sunset review.	Professional associations, consumers, applicants and licensees	TBD
14	January 2017	3 - Apprentice Registration and Recordkeeping	Division of Professions and Occupations- Electrical Board	New	§12-23-104(2)(a), C.R.S.		Clarify requirement for contractors to register apprentices, and provide history of hours worked upon termination.	Professional associations, consumers, applicants and licensees	January 23, 2017
15	January 2017	3- Apprentice Registration and Recordkeeping	Division of Professions and Occupations- Electrical Board	New	§12-23-104(2)(a), C.R.S.	Yes	Clarify requirement for contractors to register apprentices, and provide history of hours worked upon termination; review efficiency of rules.	Professional associations, consumers, applicants and licensees	January 23, 2017
16	January 2017	6.9 – Contractor Registration and Advertising	Division of Professions and Occupations- Electrical Board	New	§12-23-104(2)(a), C.R.S.	Yes	Require Contractors to use registered name in advertising; review efficiency of rules.	Professional associations, consumers, applicants and licensees	January 23, 2017
17	January 2017	2.0 - Standards	Division of Professions and Occupations- Electrical Board	Revision	§12-23-104(2)(a), C.R.S.		Update Electrical Code to 2017 NEC and 2017 NFPA.	Professional associations, consumers, applicants and licensees	January 23, 2017
18	January 2017	7.1 - Permits	Division of Professions and Occupations- Electrical Board	Revision	§12-23-111(2), C.R.S.	Yes	Clarify who can work under homeowner permit; review efficiency of rules.	Professional associations, consumers, applicants and licensees	January 23, 2017
19	January 2017	7.1 – Licenses and Registration Verification	Division of Professions and Occupations- Electrical Board	New	HB 16-1073	Yes	Add requirement for contemporaneous review of licenses; review efficiency of rules.	Professional associations, consumers, applicants and licensees	January 23, 2017
20	January 2017	11 - Renewal and Reinstatement (effective January 1, 2018)	Division of Professions and Occupations- Electrical Board	Revision	HB 16-1073		Change from CC/PDU system to CEU system.	Professional associations, consumers, applicants and licensees	January 23, 2017

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
21	January 2017	6.4.9 - Forbids pre-approval of CC activities	Division of Professions and Occupations- Electrical Board	Revision/ Repeal	§12-23-104(2)(a), C.R.S.		Allow for pre-approval of CEU courses.	Professional associations, consumers, applicants and licensees	January 23, 2017
22	Spring 2017	All office rules	Division of Professions and Occupations- Office of Athletic Trainer Registration	Revision/New	§12-29.7-112; 12-29.7-114; and 24-34-104(5)(a) & (b), C.R.S.	Yes	Implement the continuation of the Program (SB16-161); review rules and add new rule for confidential agreements.	Consumers and licensees	Winter/ Spring 2017
23	Late winter/ spring	All office rules	Division of Professions and Occupations- Office of Audiology Licensure	Revisions	§§12-29.9-106(2), 12-29.9-109(5), 12-29.9-112(1), 12-29.9-115(5), 24-4-103, 24-4-103.3, 24-4-105(11), 24-34-102(8)(d), and 24-34-102(8.5), C.R.S.	Yes	Review all rules to determine the need to amend or repeal, or the need to add new rules, based on concerns with effectiveness and current needs.	Consumers, applicants and licensees	Winter/ Spring 2017
24	Spring/ Summer 2017	All office rules	Division of Professions and Occupations- Office of Barber and Cosmetologist	Revisions/New	§12-8-108(1)(a), C.R.S.		Revise and create new rules to implement statutory changes made in 2015 legislation and to update endorsement rules consistent with other Division efficiencies.	The advisory committee, private & public schools, Colorado Department of Higher Education, Colorado Department of Corrections and active licensees	TBD
25	November 2016	6 - Custody and Responsibility	Division of Professions and Occupations- Office of Funeral Home & Crematorium Registration	New	Implement SB15-110, §§12-54-112 and 12-54-308, C.R.S.		Implement legislative changes to the practice act.	Professional associations, registrants, consumers and care facilities	October 30, 2016
26	November 2016	5- Cooperation with Director Investigations	Division of Professions and Occupations- Office of Funeral Home & Crematorium Registration	New	§12-54-401(8)(a) in conjunction w/ 12-54-401(3), C.R.S.		Clarify a registrant's responsibility to cooperate with Director's investigation.	Professional associations, consumers and registrants	October 30, 2016

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
27	November 2016	7- Business, assumed, or trade names	Division of Professions and Occupations- Office of Funeral Home & Crematorium Registration	New	§12-54-401(8)(a), C.R.S.		Clarify requirement that registered name of Funeral Home or Crematory to correspond to the records of the Secretary of State.	Professional associations, consumers and registrants	October 30, 2016
28	Late Winter/ Spring	1, 2, 3, 4 – Licensure and Requirements for Reinstatement	Division of Professions and Occupations- Office of Hearing Aid Provider Licensure	Revision	§§ 12-5.5-101(6)(a)(I), 12-5.5-201(3)(a), 12-5.5-203(2), 12-5.5-204(7), 12-5.5-301(4), 24-4-103, 24-4-103.3, 24-4-105(11), 24-34-102(8)(d), and 24-34-102(8.5), C.R.S.		Amend these rules to clarify section 12-5.5-202(1)(b), C.R.S, as it relates to issuing or denying a license within 60 days after the date the application is received.	Applicants	Winter/ Spring 2017
29	Late Winter/ Spring	All office rules	Division of Professions and Occupations- Office of Hearing Aid Provider Licensure	Revision	§§ 12-5.5-101(6)(a)(I), 12-5.5-201(3)(a), 12-5.5-203(2), 12-5.5-204(7), 12-5.5-301(4), 24-4-103, 24-4-103.3, 24-4-105(11), 24-34-102(8)(d), and 24-34-102(8.5), C.R.S.		Review all rules to determine the need to amend or repeal, or the need to add new rules, based on concerns with effectiveness and current needs.	Consumers, applicants and licensees	Winter/ Spring 2017
30	September - November 2016	All rules (1-12)	Division of Professions and Occupations- Office of Massage Therapy Licensure	Revision	§12-35.5-117, C.R.S.	Yes (rules 1-3, 6, and 8)	Clarify the Massage Therapy Rules and Regulations (3 CCR 722-1) and to consider rule changes necessitated by the passage of House Bill 16-1320. The purposes of these amendments are to correct formatting and grammatical errors and to clarify the rules regarding requirements for minimum age, endorsement applications and reinstatement applications.	Consumers, applicants, licensees, law enforcement and professional associations	September 19, 2016

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
31	Winter/Spring 2017	All rules (1-8)	Division of Professions and Occupations- Office of Outfitters Registration	Revisions	§12-55.5-104(1)(a), C.R.S.		Implement legislative changes made to the practice act.	Consumers, licensees, Federal and State land permitting agencies and the professional associations	TBD
32	October 2016	All rules 5 - Duty to Report Information to the Director's Office	Division of Professions and Occupations- Office of Respiratory Therapy Licensure	Revision	§12-41.5-113, C.R.S.	1,2 - Yes	Clarify C.R.S. 12-41.5-109.7 and to gain consistency with other Boards and Programs that has statutory authority to enter into confidential agreements with licensees/registrants. Add Rule regarding duty to self-report certain medical conditions per C.R.S. 12-41.5-109.7 and add Rule required by Statute to evaluate and provide credit for Military Experience.	Consumers, applicants and licensees	October 2016
33	October 2016	6 - Licensure Requirements: Credit for Military Experience	Division of Professions and Occupations- Office of Respiratory Therapy Licensure	New	§12-41.5-113, C.R.S.		Clarify C.R.S. 12-41.5-109.7 and to gain consistency with other Boards and Programs that has statutory authority to enter into confidential agreements with licensees/registrants.	Consumers, applicants and licensees	October 2016
34	June 2017	17 – Declaratory Orders	Division of Professions and Occupations- Office of Speech Language Pathology Certification	Revisions	2017 Sunset	Yes	Implement and new changes through Sunset.	Consumers, applicants, licensees and professional associations	June 2017
35	January 2017	TBD	Division of Professions and Occupations- Pharmacy	New	SB 16-135		Implementation	Med/Nursing/CDPHE	January 2017
36	November 2016	All board rules	Division of Professions and Occupations- Pharmacy	Repeal/ Revision/New	§§ 10-16-104, 12-42.5-101, 12-42.5-104.5, 12-42.5-105, 12-42.5-106(2) and (3), 12-42.5-118, 12-42.5-118.5, 12-42.5-133, 12-42.5-603 and 24-4-103, C.R.S.	Yes (rules 15-20)	Review efficiency of rules	Stakeholder 8/19/16 + Collaboration w/ Med/Nursing/CDPHE	November 2016

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
37	Spring/ Summer 2017	6, 14, 17 – Information required to be reported to the board, Licensure and Continuing Professional Competence	Division of Professions and Occupations- State Board of Addiction Division of Professions and Occupations- Counselor Examiners	Revisions	§§C.R.S. §12-43-224(9), 12-43-804, and 12-43-805, C.R.S.		Rule 6 - Clarify the information that licensees must report to the board, including violations by the licensee himself/herself and the timeframe for reporting. Rule 14 - Ensure supervisees receive appropriate credit for clinical supervised hours and clarify that individuals applying for a license that were previously revoked must meet current requirements for licensure by examination. Rule 17- Establish that volunteer hours are not acceptable for license reinstatement and that hours accrued for the purpose of reinstatement must be accrued while the license was expired.	In-person and webinar meeting to include licensees, consumers, schools, students and other potential applicants.	Spring 2017
38	Winter 2017	6, 14, 18 – Information required to be reported to the board, licensure and continuing professional competence	Division of Professions and Occupations- State Board of Licensed Professional Counselor Examiners	Revision	§§12-43-224(9), 12-43-604, and 12-43-605, C.R.S.		Rule 6- Clarify the information that licensees must report to the board, including violations by the licensee himself/herself and the timeframe for reporting. Rule 14 – Ensure supervisees receive appropriate credit for clinical supervised hours and clarify that individuals applying for a license that were previously revoked must meet current requirements for licensure by examination. Rule 18- Establish that volunteer hours are not acceptable for license reinstatement and that hours accrued for the purpose of reinstatement must be accrued while the license was expired.	In-person and webinar meeting to include licensees, consumers, schools, students and other potential applicants.	Spring 2017

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39	Winter 2017	7.2 Retaining Architecture Documents	Division of Professions and Occupations- State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors	Revision	§12-25-307(1)(a), C.R.S.		Consider defining "beneficial use" with regard to document retention.	Licensed architects, local building plan reviewers, consumers.	Winter 2016
40	Winter 2017	6.4, 6.5, 6.11, 6.12, 6.13 - Land Surveys	Division of Professions and Occupations- State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors	Revision	§12-25-207(1)(a), C.R.S.	Yes	Consider condensing these requirements in a more manageable and clear set of rules.	Licensed land surveyors	Winter 2016
41	Winter 2017	6.6.3 - Minimum Standards for Improvement Location Certificates	Division of Professions and Occupations- State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors	Revision	§12-25-207(1)(a), C.R.S.	Yes	Revise to determine the “APPARENT PROPERTY LINES" and update "apparent deed" and change to property line.	Licensed land surveyors real estate brokers Title companies	Winter 2016

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42	Spring/ Summer 2017	6, 14, 18 – Information required to be reported to the board, licensure, and continuing professional competence	Division of Professions and Occupations- State Board of Marriage and Family Therapists	Revisions	§12-43-224(9), 12-43-504, and 12-43-506, C.R.S.		Rule 6- Clarify the information that licensees must report to the board including violations by the licensee himself/herself and the timeframe for reporting. Rule 14 – Ensure supervisees receive appropriate credit for clinical supervised hours and clarify that individuals applying for a license that were previously revoked must meet current requirements for licensure by examination. Rule 18- Establish that volunteer hours are not acceptable for license reinstatement and that hours accrued for the purpose of reinstatement must be accrued while the license was expired.	In-person and webinar meeting to include licensees, consumers, schools, students and other potential applicants.	Spring 2017
43	January/ February 2017	Chapter 20	Division of Professions and Occupations- State Board of Nursing	Revision	§24-60-3201 C.R.S.		Adopt the new enhanced nurse licensure compact.	Colorado Nurses Association, Colorado Association for Nursing Excellence, Various facilities including large employers.	TBD
44	TBD	Chapter 14	Division of Professions and Occupations- State Board of Nursing	Revision	§§12-38-108(1)(d) and (j), 12-38-111.5, and 12-38-111.8, C.R.S.		Conduct total rule review for continued relevancy and clarity; and specifically to clarify that "practice in any state" includes advanced practice nursing while serving in any branch of the United States Military, and the competence requirements for reinstatement and endorsement.	Colorado Nurses Association, Colorado Association for Nursing Excellence, Various facilities including large employers. military representatives	TBD
45	TBD	Chapter 1	Division of Professions and Occupations- State Board of Nursing	Revision	§§12-38-108(1)(b),(c) and (j), 12-38-110, 12-38-111, 12-38-112, 12-38-112.5, and 12-38-118, C.R.S.		Review efficiency of rules; and specifically to clarify continued competence requirements for endorsement, reinstatement, and reactivation, and NCLEX examination requirements.	Consumers, licensees, and employers.	TBD

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46	TBD	10	Division of Professions and Occupations- State Board of Optometry	Revision	§12-40-107(1)(g), C.R.S.		Gain consistency with other programs and ensure that applicants seeking licensure by examination meet competency requirements. Amend Rule number 10 to add competency requirements.	Applicants and consumers.	TBD
47	Spring 2017	6, 14 – Information required to be reported to the board and licensure New Rule on Continuing Competency	Division of Professions and Occupations- State Board of Psychologist Examiners	6 - Revision 14-New	§§12-43-224(9), 12-43-304, and 12-43-307(2), C.R.S.		Rule 6- Clarify the information that licensees must report to the board, including violations by the licensee himself/herself and the timeframe for reporting. Rule 14 – Ensure supervisees receive appropriate credit for clinical supervised hours and clarify that individuals applying for a license that were previously revoked must meet current requirements for licensure by examination. A new rule is needed to implement recent legislation to implement a continuing professional development requirement for licensees	Licensees, consumers, schools, students and other potential applicants.	Rule 14 - Spring 2017; New Rule on Continuing Competency December 2, 2016

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48	Spring 2017	6, 12, 14, 18 - Information required to be reported to the board, licensure, and continuing professional competence	Division of Professions and Occupations- State Board of Social Work Examiners	Revision	§§C.R.S. §12-43-224(9), C.R.S. § 12-43-404, C.R.S. §12-43-206, and C.R.S. §12-43-406		Rule 6- Clarify the information that licensees must report to the board, including violations by the licensee himself/herself and the timeframe for reporting. Rule 12- Clarify requirements for supervised or active practice. Rule 14- Clarify that individuals applying for a license that were previously revoked must meet current requirements for licensure by examination. Rule 18- Establish that volunteer hours are not acceptable for license reinstatement and that hours accrued for the purpose of reinstatement must be accrued while the license was expired.	Licensees, consumers, schools, students and other potential applicants.	Spring 2017
49	Fall 2016	9- Confidential Agreements Limiting Practice	Division of Professions and Occupations- State Board of Veterinary Medicine	New	§§12-64-105(9)(j), and 12-64-126, C.R.S.		Clarify the Board's capacity to enter into confidential agreements with a licensee after a mental status evaluation.	Licensees	August 11, 2016
50	Spring 2017	6 - Information required to be reported to the board	Division of Professions and Occupations- State Board or Registered Psychotherapists	Revision	§12-43-224(9), C.R.S.		Clarify information about the requirement of licensees to report to the board.	Licensees, consumers, schools, students and other potential applicants.	Spring 2017
51	Late Winter/ Spring 2017	201, 209, 214 - Supervision and/or Direction of Persons Not Licensed as a Physical Therapist, Financial Responsibility Exemptions and Written Plan to Ensure the Security of Patient Medical Records	Division of Professions and Occupations- State Physical Therapy Board	201 - Revision 209 - New 214 - New	§§ 12-41-103.6(2)(b), 12-41-113(1), 12-41-114.5, 12-41-115.5(4), 12-41-201(3), 24-4-103, 24-4-103.3, 24-4-105(11), 24-34-102(8)(d), and 24-34-102(8.5), C.R.S.		Reorganize Rule 201 by supervised profession, if needed; create a rule to address lesser financial responsibility standards for a class of physical therapists whose practice does not require that level of public protection; and create a rule to address the requirements for a physical therapist in developing a written plan to ensure the security of patient medical records.	Consumers, licensees, and those supervised by licensed physical therapists.	Winter/ Spring2017

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52	Late winter/ spring	All board rules	Division of Professions and Occupations- State Physical Therapy Board	Revision	§§ 12-41-103.6(2)(b), 12-41-113(1), 12-41-114.5, 12-41-115.5(4), 12-41-201(3), 24-4-103, 24-4-103.3, 24-4-105(11), 24-34-102(8)(d), and 24-34-§102(8.5), C.R.S.		Re-order, re-organize, and possibly re-number rules only; no substantive changes.	Consumers, applicants, licensees, and certificate holders.	Winter/ Spring 2017
53	Fall/ Winter	3.1.4.3.4.3 - Incorrect Attachment	Division of Professions and Occupations- Colorado Passenger Tramway Safety Board	New	§25-5-704(1)(a), C.R.S. bv Or		Ensure that appropriate language is included in the rule. When adopting the last ANSI Standard, the Board adopted the requirement that all existing ropeways meet the ANSI-2006. Subsequently, the Board adopted sections from the ANSI Standards compendium addressing equipment that could not reasonably meet newer requirements. However, the section within the proposed draft language below was not included and is necessary to allow existing ropeways to meet reasonable standards appropriate to the time of their construction.	Licensees & consumers	Winter 2016/2017
54	Fall/ Winter	All office rules	Division of Professions and Occupations- Office of Fantasy Contests	New	§12-15.5-101, C.R.S. et seq.		Implement rules associated with new program.	Anticipated licensees and Department of Revenue	Winter 2016/2017
55	Fall/ Winter	Operational requirements: §2 – Aerial Tramways, §3 – Detachable Tramways, §4 – Fixed Grip Tramways	Division of Professions and Occupations- Colorado Passenger Tramway Safety Board	New	§25-5-704(1)(a), C.R.S.	Yes	Adopt the current ANSI section for Aerial Tramways, Detachable Tramways, and Fixed Grip Tramways (respectively) regarding Operational Requirements in order to put the rules in a correct chronological order. And to also add the pre-operational minimum ridership requirement that will address the personnel allowed to ride a tramway prior to the completion of daily operational checks.	Licensees and consumers	Winter 2016/2017

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56	August 2016	725-1 - Rules regarding Real Estate Brokers	Division of Real Estate	New	§§12-61-114(4) and 12-61-114.5, C.R.S.		Amend, repeal and add new administrative rule to implement recommendations found in the 2017 Sunset Review of the Real Estate broker and Subdivision Developer programs. This will include reviewing and revising the use of Commission forms, licensing, education (qualifying and continuing), insurance requirements, developing experience requirements and practice standards.	Colorado Association of Realtors, Denver Metro Commercial Association of Realtors, Institute of Real Estate Management, Building Owners and Managers Association, Apartment Association of Metro Denver, National Association of Residential Property Managers, and local area Realtor Associations.	Winter 2016/2017
57	November 2016	725-2 - Rules of the Colorado Board of Real Estate Appraisers	Division of Real Estate	Revision	§12-61-704, C.R.S.		Incorporate the 2018-2019 version of generally accepted standards of professional appraisal practice, the definitions, preamble, rules, standards, and standards rules of the Uniform Standards of Professional Appraisal Practice (USPAP). Additionally, to review and revise any licensing, education and practice standards as necessary to comply with any federal mandates.	The Board of Real Estate Appraisers	Winter 2017
58	January 2017	725-3 - Rules regarding Mortgage Loan Originators and Mortgage Companies	Division of Real Estate	Repeal	§§12-61-902.5(2), 12-61-905(10), and 12-61-905.1(3), C.R.S.		Implement two bills that directly impact the Mortgage of Loan Originators administrative rules. SB16-014 directly affects delivery, timeframes and forms used for disclosing certain fees and costs and replace those provisions with cross references to applicable federal disclosure mandates. HB16-1306 amended, relocated and repealed provisions of the MLO Practice Act in accordance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.	The Colorado Mortgage Lenders Association, Colorado Association of Mortgage Professionals, Rocky Mountain Home Association, licensed loan originators and mortgage compliance managers	Winter 2017
59	March 2017	725-4 - Rules regarding Conservation Easements	Division of Real Estate	New	§§12-61-724, 12-61-726 and 12-61-727, C.R.S.		Amend, repeal or add new administrative rules as a result of any recommendations incorporated in the 2016 performance audit conducted by the Office of the State Auditor. This includes rules with regard to certification, practice standards, defined terms or tax credit application rules.	Holders of conservation easements, real estate appraisers, landowners seeking a tax credit, Colorado taxpayers, Colorado Coalition of Land Trusts, and IRS examiners	On-going through 2017

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60	January 2017	51-3.5 - Notice of Intention to Sell in Reliance on Investment Company Exemption	Division of Securities	Revision	§11-51-704, C.R.S	Yes	Reduce cost and regulatory burden for filers by decreasing filing requirements and ameliorate conflict with federal securities laws.	Securities issuers and the investing public	TBD
61	January 2017	51-3.13 - Regarding Regulation A offerings	Division of Securities	Revision	§11-51-704, C.R.S	Yes	Reduce cost and regulatory burden for filers by decreasing filing requirements and ameliorate conflict with federal securities laws.	Securities issuers and the investing public	TBD
62	January 2017	51-3.24 - Crowdfunding-Additional Issuer Requirements	Division of Securities	Revision	§11-51-704, C.R.S		Ameliorate conflict with federal securities laws.	Securities issuers and the investing public	TBD
63	January 2017	51-4.8 - Supervisory Requirements for broker-dealer firms	Division of Securities	New	§11-51-704, C.R.S		Modernize Colorado securities rules by adopting requirement that broker-dealers implement supervisory policies in order to better protect investors.	Broker-dealers and the investing public	TBD
64	January 2017	51-4.9: Broker-Dealer Cyber-Security	Division of Securities	New	§11-51-704, C.R.S		Modernize Colorado securities rules by adopting requirement that broker dealers implement supervisory policies in order to better protect investors.	Broker-dealers and the investing public	TBD
65	January 2017	51-4.6(IA) - Books and Records 51-4.10(IA) - Custody and Safekeeping Requirements	Division of Securities	Revision	§11-51-704, C.R.S		Modernize Colorado securities rules by adopting requirements that change how investment advisers keep their books when they have custody and/or possession of client funds in order to better protect investors.	Investment advisers and the investing public	TBD

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66	January 2017	51-4.3(IA), 51-4.4(IA) - Application for an Investment Adviser Licensure	Division of Securities	Revision	§11-51-704, C.R.S		Modernize Colorado securities rules, protect small businesses physically located in Colorado, and protect investors by adopting the requirement that an investment adviser have at least one agent registered in Colorado and that investment adviser representatives pass the Series 63. Require that any investment adviser representative license applicant who was a former broker-dealer representative and who has an outstanding Financial Industry Regulatory Authority (FINRA) arbitration award explain the facts and circumstances surrounding the unpaid award before an investment adviser license can be granted.	Investment advisers and the investing public	TBD
67	January 2017	51-4.11(IA) - Registration Exemption for Investment Advisers to Private Funds	Division of Securities	New	§11-51-704, C.R.S		Reduce cost and regulatory burden for investment advisers by providing a licensing exemption to investment advisers to private funds.	Investment advisers to private funds and the investing public	TBD
68	January 2017	51-4.12(IA) - Business Continuity and Succession Planning	Division of Securities	New	§11-51-704, C.R.S		Modernize Colorado securities rules and protect investors by adopting a requirement that investment advisers engage in continuity of operations and succession planning.	Investment advisers and the investing public	TBD
69	January 2017	51-4.13(IA)- Performance Based Compensation Exemption for Investment Adviser;	Division of Securities	New	§11-51-704, C.R.S		Modernize Colorado securities rules and protect investors by adopting a requirement that investment advisers may only receive performance-based compensation after certain requirements have been met.	Investment advisers and the investing public	TBD
70	January 2017	51-4.14(IA) - Net Worth Requirements	Division of Securities	New	§11-51-704, C.R.S		Modernize Colorado securities rules and protect investors by adopting a requirement that investment advisers have positive net worth and a surety bond.	Investment advisers and the investing public	TBD
71	January 2017	51-4.15(IA) - Supervision Requirements	Division of Securities	New	§11-51-704, C.R.S		Modernize Colorado securities rules and protect investors by adopting a requirement that investment advisers implement supervision requirements.	Investment advisers and the investing public	TBD

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72	January 2017	51-4.16(IA) - Cybersecurity Protocols	Division of Securities	New	§11-51-704, C.R.S		Modernize Colorado securities rules and protect investors by adopting a requirement that investment advisers implement cybersecurity protocols.	Investment advisers and the investing public	TBD
73	February 2017	723-6 - Transportation	Public Utilities Commission	Revision	HB16-1097 and general rulemaking authority		Changes regarding safety requirements as well as Medicaid client transport carriers within the limited regulation carriers.	Common carriers and limited regulation carriers	May 2017
74	April 2017	723-2 - Telecommunications Colorado High Cost Support Mechanism and Costing and Pricing	Public Utilities Commission	Revision	Changes are necessary due to changing circumstances for the Colorado High Cost Support Mechanism (CHCSM) fund, contributions, distributions and methodologies.		Recent Commission proceedings necessitate changes to the CHCSM including the effect of the effective competition area determinations, court proceedings, broadband board activities, contribution and distribution changes, etc.	Telecommunications providers	August 2017
75	January 2017	723-4 - Gas Pipeline Safety	Public Utilities Commission	Revision	Requirements from federal Pipeline and Hazardous Material Safety Administration for penalties for damages from excavators		Incorporate changes required by PHMSA to include a regulatory process to investigate excavator damage to gas pipeline and possible civil penalties.	Gas utilities, excavators and One Call Center	April 2017
76	December 2016	723-7 - Rail	Public Utilities Commission	Revision	General rulemaking authority		Incorporate Commission temporary rules, incorporate changes to federal rules, and make changes that have been requested by road authorities and railroads.	All road authorities with rail crossings, railroads and rail fixed guide ways	February 2017
77	July 2017	723-7 - Rail	Public Utilities Commission	Revision	State Safety Oversight Program Changes		Implement MAP-21 required regulatory changes for state safety oversight.	RTD light rail operations	October 2017
78	February 2017	723-3 - Electric - Transmission planning	Public Utilities Commission	Revision	HB16-1091		Implement changes to transmission planning process pursuant to HB16-1091.	Transmission providers	May 2017
79	February 2017	723-4 - Gas	Public Utilities Commission	Revision	General rulemaking authority	Yes	Review efficiency of rules.	Gas utilities	May 2017

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80	August 2016	1-1-1 - Actuarial Qualifications	Division of Insurance	Revision	§§ 10-1-108(8) and 10-1-109, C.R.S.	Yes	Review efficiency of rules, which assure that the consulting actuary, actuary or other person acting in the capacity of an actuary is properly qualified to perform the actuarial duties in a competent and professional manner by establishing qualifications for such persons.	Actuaries and Insurance Companies	September 2017
81	June 2017	1-1-8 - Penalties and Timelines Concerning Division Inquires and Document Request	Division of Insurance	Revision	§§ 10-1-109, 10-2-104, 10-3-109(3), and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which prescribe the time period in which all persons and entities shall respond to Colorado Division of Insurance inquiries, including, but not limited to, document and information requests during market conduct and financial examinations, investigations of complaints, and any other formal or informal investigation or examination conducted for the purpose of determining compliance with Colorado insurance law. In addition, the purpose of this regulation is to prescribe the penalties for failure to respond to Division inquiries within the timeframes specified in this regulation.	Insurance Companies	September 2017
82	March 2017	1-1-9 - Exceptions to Electronic Rate Filing	Division of Insurance	Revision	§§ 10-1-109, 10-4-401(5) and 10-16-107(1), C.R.S.	Yes	Review efficiency of rules, which prescribe the format for electronic rate filings with the Division of Insurance (Division), and to set forth the circumstances that would be considered an emergency situation exempting carriers from making electronic rate filings.	The requirements of this regulation shall apply to all insurance companies who file type II rates for property and casualty insurance rate filings	July 2017
83	April 2017	2-1-8 - Concerning Risk Retention Groups and Purchasing Groups	Division of Insurance	Revision	§§ 10-1-109 and 10-3-1403, C.R.S.	Yes	Review efficiency of rules, which regulate the formation and/or operation of risk retention groups or purchasing groups in this state formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986, 15 U.S.C. 3901 et seq ("RRA 1986"), to the extent permitted by such law.	Insurance companies and purchasing groups	July 2017

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84	December 2016	3-1-7 - Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition	Division of Insurance	Revision	§§ 10-1-109, 10-3-201(1)(b), 10-6-129, 10-14-505, and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which set forth the standards which the Commissioner of Insurance may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors or the general public.	Colorado licensed insurers as well as to each Colorado licensed group captive insurer, fraternal benefit society, health maintenance organization, prepaid dental care plan organization, and non-profit hospital, medical-surgical and health service corporation.	April 2017
85	March 2017	3-1-9 - Minimum Reserve Standards for Individual and Group Health Insurance Contracts	Division of Insurance	Revision	§§ 10-1-109, 10-16-109 and 10-16-220, C.R.S.	Yes	Review efficiency of rules, which to set forth minimum standards for reserves of insurers providing individual and group health insurance.	Individual and Group carriers	June 2017
86	June 2017	3-1-11 -Risk-Based Capital (RBC) for Insurers	Division of Insurance	Revision	§§ 10-1-109, 10-3-201(1)(b), 10-6-129, and 10-14-604, C.R.S.	Yes	Review efficiency of rules, which establish standards for the minimum capital and surplus to be maintained by insurers, captive insurers and fraternal benefit societies as provided by §§ 10-3-201(1)(b), 10-6-116, and 10-14-604, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of an insurer in order to protect its insureds and the general public.	Insurance Companies	September 2017
87	July 2017	3-1-12 - Risk-Based Capital (RBC) for Health Organizations	Division of Insurance	Revision	§§ 10-16-310(3) and 10-16-411(2), C.R.S.	Yes	Review efficiency of rules, which establish standards for the minimum capital and surplus to be maintained by health organizations as provided by §§ 10-16-310 and 10-16-411, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of a health organization in order to protect its enrollees/members and the general public.	Health maintenance organization, nonprofit hospital medical-surgical and health service corporation, or other managed care organization.	October 2017

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88	September 2017	3-1-14 - Alternative Mechanism for Carriers Entering into Contracts with Risk-bearing Entities	Division of Insurance	Revision	§§10-1-109, 10-16-109 and 10-16-708 C.R.S.	Yes	Review efficiency of rules, which establish an acceptable alternative mechanism pursuant to §10-16-705(5)(b), C.R.S. This regulation establishes the terms of an alternative mechanism, which, if complied with, is deemed approved for purposes of §10-16-705(5)(b), C.R.S. Carriers are not limited to this one alternative mechanism.	All carriers	December 2017
89	December 2016	3-5-2 - Title Insurer Assessment	Division of Insurance	Revision	§§ 10-1-109 and 10-3-207, C.R.S.	Yes	Review efficiency of rules, which establish the standard to determine the amount each title insurer shall be assessed in accordance with § 10-3-207, C.R.S.	All title insurers	March 2017
90	January 2017	3-5-3 - Concerning Certificate of Taxes Due Alternative Documentation Permitted	Division of Insurance	Revision	§§ 10-1-109, and 10-11-122, C.R.S.	Yes	Review efficiency of rules, which establish the requirements of alternative documentation a title entity may use and rely upon during the annual period when county treasurers are certifying the tax rolls and cannot issue a certificate of taxes due.	All title entities	April 2017
91	March 2017	4-2-1 - Replacement of Individual Accident and Sickness Insurance	Division of Insurance	Revision	§§ 10-1-109 and 10-3-1110, C.R.S.	Yes	Review efficiency of rules, which reduce the opportunity for misrepresentation and other unfair practices and methods of competition in the business of insurance.	Insurance companies and consumers	July 2017
92	June 2017	4-2-2 - Hospital Indemnity and Disability Income Policies	Division of Insurance	Revision	§§ 10-1-109 and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which prohibits insurers from refusing to pay benefits under certain contracts because of hospitalization in government hospitals.	Insurance companies and consumers	September 2017
93	September 2017	4-2-21 - External Review of Benefit Denials of Health Coverage Plans	Division of Insurance	Revision	§§ 10-1-109, 10-16-109, and 10-16-113.5(4)(d), C.R.S.	Yes	Review efficiency of rules, which provide standards for the external review process set forth in § 10-16-113.5, C.R.S., including the approval of independent external review entities.	Insurance companies and consumers	December 2017
94	November 2017	4-2-23 - Procedure for Provider-Carrier Dispute Resolution	Division of Insurance	Revision	§§ 10-1-109, 10-3-1110, 10-16-109, and 10-16-708, C.R.S.	Yes	Review efficiency of rules, which establish procedures for resolution of provider-carrier disputes, as required by § 10-16-705(13), C.R.S.	All carriers when they are providing health care services through managed care plans,	November 2017

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
95	July 2017	4-2-29 - Concerning the Rules for Standardized Cards Issues to Persons Covered by Health Benefit Plans	Division of Insurance	Revision	§§ 10-1-109, and 10-16-135, C.R.S.	Yes	Review efficiency of rules, which provide health carriers the guidance necessary to comply with the statutory requirements regarding the issuance and use of a health benefit plan identification cards, pursuant to § 10-16-135, C.R.S.	Insurance companies and consumers	October 2017
96	March 2017	4-2-30 - The Rules for Complying with Mandated Coverage of Hearing Aids and Prosthetics	Division of Insurance	Revision	§ 10-1-109, C.R.S.	Yes	Review efficiency of rules, which provide health carriers the guidance necessary to comply with the requirement to provide coverage for prosthetics and hearing aids pursuant to §§10-16-104(14) and (19), C.R.S., respectively.	Insurance companies and consumers	July 2017
97	January 2017	4-2-37 - Required Information for Carriers to Obtain on All Full-Length Applications for Individual Health Benefit Plans	Division of Insurance	Revision	§§ 10-1-109 and 10-16-105.2(1.5), C.R.S.	Yes	Review efficiency of rules, which establish a standard affidavit form to be used upon application for an individual health benefit plan when a small employer intends on reimbursing an employee for any portion of the premium.	Insurance companies and consumers	April 2017
98	July 2017	4-2-38 - Contraceptive Benefits	Division of Insurance	Revision	§§ 10-1-109 and 10-16-104(3)(a)(I) C.R.S.	Yes	Review efficiency of rules, which implement Colorado insurance law and ensure carriers are providing coverage for contraception in policies in the same manner as any other sickness, injury, disease or condition is otherwise covered under the policy or contract.	Insurance companies and consumers	October 2017
99	January 2017	4-2-40 - Certification for Certain Limited Benefit Plans, Credit Life and Health, Preneed Funeral Contracts, Excess Loss Insurance Forms, and Sickness and Accident Insurance, other than Health Benefit Plans	Division of Insurance	Revision	§§ 10-1-109(1), 10-3-1110, 10-15-105(1)(b)(I),(II),(III), 10-16-109, 10-16-107(2), 10-16-107.2(1),(2),(3), 10-16-107.3(1)(b), and 10-16-119(1), C.R.S.	Yes	Review efficiency of rules, which promulgate rules applicable to the filing of new policy forms, new policy form listings, annual reports of policy forms, and certifications of policy forms and contracts, other than health benefit forms.	Insurance companies and consumers	May 2017

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
100	April 2017	4-2-45 - Uniform Individual and Small Group Health Benefit Plan Applications	Division of Insurance	Revision	§§ 10-1-109, 10-16-107.5(1), and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which promulgate rules concerning the uniform individual and small group health benefit plan applications.	Insurance companies and consumers	July 2017
101	July 2017	4-2-46 - Premium Rate Setting for Grandfathered Individual, Small Group, and Large Group Health Benefit Plans and Student Health Coverage	Division of Insurance	Revision	§§ 10-1-109(1), 10-16-107 and 10-16-109, C.R.S. (2012).	Yes	Review efficiency of rules, which establish and implement rules for setting premiums for grandfathered individual, small group and large group plans. Article 16, as it existed prior to the effective date of HB 13-1266, applies to grandfathered health benefit plans,	Insurance companies and consumers	October 2017
102	September 2017	4-2-47 - Required Benefit for Applied Behavior Analysis Therapy for the Treatment of Autism Spectrum Disorder	Division of Insurance	Revision	§§ 10-1-109, 10-16-104(1.4)(b) and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which establish the requirements for the benefit provided by carriers for applied behavior analysis (ABA) therapy for the treatment of autism spectrum disorders in children.	Insurance companies and consumers	December 2017
103	September 2017	4-2-48 - Grace Periods for Policyholders Receiving Advance Payment Tax Credits	Division of Insurance	Revision	§§ 10-1-109, 10-16-106.5(8)(b), and 10-16-140(4), C.R.S.	Yes	Review efficiency of rules, which establish the requirements for grace periods for health benefit plans offered on the Exchange for policyholders that receive the federal Advance Payment Tax Credits (APTC), and where the policyholder of the plan is delinquent in the payment of monthly premiums.	Insurance companies and consumers	December 2017
104	October 2017	4-2-49 - Concerning the Development and Implementation of a Uniform Drug Benefit Prior Authorization Process	Division of Insurance	Revision	§§ 10-1-109, 10-16-124.5(3)(a), and 10-16-124.5(3)(c), C.R.S.	Yes	Review efficiency of rules, which establish the requirements, process, and form to be utilized by carriers and contracted pharmacy benefit management firms for the prior authorization process for prescription drug benefits.	Insurance companies and consumers	January 2018
105	January 2017	4-6-10 - Employee Leasing Companies and Health Care Coverage	Division of Insurance	Revision	§§ 10-1-109, 10-3-1110 and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which establish and implement rules for health carriers that issue and renew health plans to employee leasing companies and work-site employers.	All Health Carriers	April 2017

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
106	September 2017	4-6-12 - Mandatory Coverage of Mental Illness	Division of Insurance	Revision	§§ 10-1-109 and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which clarify the coordination of subsections (5) and (5.5) of § 10-16-104, C.R.S. (2012), concerning mental illness and biologically based mental illness (BBMI).	Small group grandfathered health benefit plan carriers	December 2017
107	September 2017	4-6-2 - Group Coordination of Benefits	Division of Insurance	Revision	§§ 10-1-109 and 10-16-109, C.R.S.	Yes	Review efficiency of rules, which establish a uniform order-of-benefit determination under which plans pay claims;	Group health coverage carriers	December 2017
108	Apr.	4-6-8 - Concerning Small Employer Group Health Benefit Plans	Division of Insurance	Revision	§§ 10-1-109, 10-16-105.2(1)(a)(IV), 10-16-108.5(8), 10-16-109, and 10-16-708, C.R.S.	Yes	Review efficiency of rules, which establish rules for implementing Colorado's small group laws.	Group health coverage carriers	July 2017
109	December 2017	4-7-1 - Health Maintenance Organizations	Division of Insurance	Revision	§§ 10-1-109, 10-16-109, and 10-16-403(2)(b), C.R.S.	Yes	Review efficiency of rules, which provide the requirements for licensure as a health maintenance organization (HMO) and establish standards for HMO organization and operations.	HMOs	March 2017
110	August 2017	4-7-2 - Laws Regulating Health Maintenance Organization Benefit Contracts and Services in Colorado	Division of Insurance	Revision	§ 10-16-109, C.R.S.	Yes	Review efficiency of rules, which provide reasonable standards for the terms and provisions contained in Health Maintenance Organizations' ("HMOs") benefit contracts and evidences of coverage.	HMOs	November 2017
111	January 2017	5-1-11 - Risk Modification Plans	Division of Insurance	Revision	§§ 10-1-109, 10-4-401, 10-4-403, 10-4-404, and 10-4-408, C.R.S.	Yes	Review efficiency of rules, which to provide criteria for the modification of commercial property and casualty manual rates and to establish workers' compensation disclosure requirements.	Workers compensation carriers	May 2017
112	April 2017	5-1-12 - Warranties and Service Contracts	Division of Insurance	Revision	§§ 10-1-108(8) and 10-1-109, C.R.S.	Yes	Review efficiency of rules, which establish a distinction between a written agreement that is an insurance contract pursuant to § 10-1-102(12), C.R.S. and a written agreement that meets the definition of a written warranty or service contract and is not subject to regulation by the Division of Insurance (Division).	Warranty service contract issuers subject to the Insurance Laws of Colorado	August 2017

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
113	July 2017	5-1-18 - Elements of Certification for Certain Property and Casualty, Credit, and Excess Loss Forms and Contracts	Division of Insurance	Revision	§§ 10-1-109, 10-3-1110, 10-4-419, 10-4-633, 10-4-633.5, 10-10-109, and 10-16-119, C.R.S.	Yes	Review efficiency of rules, which promulgate rules applicable to the filing of property and casualty and credit forms and contracts that include, but are not limited to, the Family Medical Leave Act (FMLA), unemployment, credit property, excess loss insurance new policy forms, new policy form listings, annual reports of policy forms, and certifications of policy forms.	All insurance carriers required to file certification forms in SERFF	October 2017
114	June 2017	5-3-4 - Standards for Not At -Fault Motor Vehicle Accidents Under Workers' Compensation, Loss Limitation in Calculating Experience Modifications and Distribution of Losses in Excess of the Loss Limitation	Division of Insurance	Revision	§§ 10-1-109 and 10-4-408(5)(e), C.R.S.	Yes	Review efficiency of rules, which establish and implement final rules that provide standards for determining when a motor vehicle accident is not at fault, a loss limitation to be included in the calculation of workers' compensation insurance experience modifications, the loss distribution among workers' compensation classifications of any loss in excess of the loss limitation, when the use of a motor vehicle is an integral part of an employer's business.	Insurance companies and consumers	September 2017
115	January 2017	6-4-1 - Privacy of Consumer Financial and Health Information	Division of Insurance	Revision	§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.	Yes	Review efficiency of rules, which govern the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees of the Colorado Division of Insurance.	Insurance companies and consumers	May 2017
116	January 2017	6-4-2 - Standards for Safeguarding Customer Information	Division of Insurance	Revision	§§10-1-109, C.R.S; 10-16-109, C.R.S.; and 10-16-401(4)(o), C.R.S.	Yes	Review efficiency of rules, which establish standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information	Insurance companies and consumers	May 2017

#	Schedule	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule/ revision/ review/ repeal	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
117	March 2017	6-5-1 - Reporting of Suspected Insurance Fraud	Division of Insurance	Revision	§§ 10-1-109 and 10-4-1003 C.R.S.	Yes	Review efficiency of rules, which facilitate the reporting of suspected insurance fraud, to aid in the detection, investigation and ultimate prosecution of those who commit insurance fraud in this state and to deter future fraudulent acts by improving regulatory oversight of licensed persons who commit insurance fraud.	Insurers, nonprofit hospital, medical-surgical, and health service corporations, health maintenance organizations, licensed insurance producers and other persons or corporations that are required or elect to report insurance fraud in the state of Colorado.	June 2017

Departmental Regulatory Agendas

Department

Department of Treasury

STATE OF COLORADO
DEPARTMENT OF THE TREASURY

Walker R. Stapleton
State Treasurer

Jonathan J. Forbes
Deputy Treasurer

November 9, 2016

To whom it may Concern:

As required by statute, the purpose of this memo is to discuss the Department of Treasury's Regulatory Agenda.

The Department of Treasury has no immediate Regulatory Agenda for Fiscal Year Ending June 30, 2017.

Sincerely,

Jonathan Forbes
Colorado Deputy Treasurer
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Calendar of Hearings

Hearing Date/Time	Agency	Location
12/15/2016 09:30 AM	Division of Gaming - Rules promulgated by Gaming Commission	17301 W. Colfax Ave., Suite 135, Golden, CO 80401
12/14/2016 01:15 PM	Colorado State Board of Education	Colorado Department of Education, State Board Room 101
12/07/2016 09:00 AM	Division of Securities	Civic Center Plaza 1560 Broadway, Denver, CO 80202 Conference Room 1250B
12/02/2016 09:00 AM	Division of Professions and Occupations - Colorado Podiatry Board	1560 Broadway, Conference Room 1250A, Denver, CO 80202
02/23/2017 09:00 AM	Passenger Tramway Safety Board	1560 Broadway, Conference Room 1250-C, Denver CO 80202
02/23/2017 09:00 AM	Passenger Tramway Safety Board	1560 Broadway, Conference Room 1250-C, Denver CO 80202
02/23/2017 09:00 AM	Passenger Tramway Safety Board	1560 Broadway, Conference Room 1250-C, Denver CO 80202
12/06/2016 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO 80202
12/05/2016 11:00 AM	Division of Professions and Occupations - Office of Outfitters Registration	1560 Broadway Suite 1250A Denver, CO 80202
12/06/2016 01:00 PM	Division of Professions and Occupations - Office Of Athletic Trainer Registration	1560 Broadway, Room 110D, Denver, CO 80202
12/13/2016 10:30 AM	State Board of Stock Inspection Commissioners	Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021
12/06/2016 11:00 AM	Division of Private Occupational Schools	Tivoli Student Center, Auraria Higher Education Campus 900 Auraria Parkway Denver, CO 80204
12/02/2016 10:00 AM	Income Maintenance (Volume 3)	Denver Eastside Human Services Building, 3815 Steele Street, Denver, CO 80205
12/02/2016 10:00 AM	Child Support Enforcement (Volume 6)	Denver Eastside Human Services Building, 3815 Steele Street, Denver, CO 80205
12/02/2016 10:00 AM	Finance and Accounting Rules (Volume 5)	Denver Eastside Human Services Building, 3815 Steele Street, Denver, CO 80205