

# TITLE 150: DEPARTMENT OF PUBLIC SAFETY

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## CHAPTER 150-100 VEHICLE IMPOUND REGULATIONS

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Chapter Authority: 1 CMC § 2507; 6 CMC § 2151.

Chapter History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

Commission Comment: PL 1-8, tit. 1, ch. 10, codified as amended at 1 CMC §§ 2501-2507, creates the Department of Public Safety (DPS) within the Commonwealth government, composed of a police force. See 1 CMC § 2501; see also PL 14-25 § 3 (effective Aug. 20, 2004) (amending 1 CMC § 2501). 1 CMC § 2507 directs the Department to adopt rules and regulations regarding activities over which it has jurisdiction.

6 CMC § 2151(f) authorizes DPS to promulgate regulations for the purposes of charging for towing and impoundment fees and to collect fees.

The 2015 regulations were promulgated without parts. The Commission designated the parts in this chapter.

### **Part 001 -      General Provisions**

#### **§ 150-100-001 Title**

This chapter may be cited as the “Department of Public Safety Vehicle Impound Regulations.”

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

#### **§ 150-100-005 Authority**

The Department of Public Safety is authorized by 1 CMC §§ 9115, 2507(a), 6 CMC § 2151, and 9 CMC §§ 4104(g), 4113, 5808, 7114 to adopt rules and regulations for vehicle impoundment and administrative hearings.

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History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

### § 150-100-010 Rules of Construction

(a) The following rules of construction apply to the regulations contained in this division, except as otherwise noted:

- (1) The enumeration of some criteria for the making of discretionary decisions does not prohibit the application of other criteria reasonably related to the decision being made.
- (2) The order in which criteria are listed does not indicate their relative weight or importance.
- (3) “Shall” is mandatory, “should” is advisory, and “may” is permissive.
- (4) The past, present, or future tense includes the others.
- (5) The masculine gender includes the feminine gender; the singular includes the plural.
- (6) The time limits specified in these rules do not create a right to have the specified action taken within the time limits. The time limits are directory, and the failure to meet them does not preclude taking the specified action beyond the time limits.

(b) Definitions.

- (1) “Good cause” means circumstances beyond the control of the person seeking the hearing that prevented such person from filing a timely request for hearing.
- (2) “Impoundment” means any removal of a vehicle to a storage facility or location designated by the Department of Public Safety either by an officer or authorized agent of the Department of Public Safety or by a contractor for towing and storage in response to a request from an officer or authorized agent of the Department of Public Safety.
- (3) “Motor vehicle” means a device in, upon, or by which any person or property may be propelled, moved, or drawn upon a highway.
- (4) “Owner’s agent” means the legal owner of the vehicle, a driver in possession of the vehicle with the registered owner’s permission; a person who is determined and verified by the Department of Public Safety to have the permission of the registered owner of the vehicle; or a person who has purchased the vehicle from the registered owner, who produces proof of ownership or authorization and signs a receipt therefore.
- (5) “Vehicle” means any motor vehicle, vessel, or airplane.
- (6) “Regulation” means rule or regulation.

Modified, 1 CMC § 3806(g).

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

Commission Comment: The Commission inserted a comma after the word “upon” in subsection (b)(3) pursuant to 1 CMC § 3806(g).

### Part 100 - Types of Impoundment

#### § 150-100-101 Impoundment upon Citation

(a) A vehicle may be impounded upon issuance of a citation for violation of Title 6 or Title 9 of the Commonwealth Code.

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(1) A vehicle shall not be impounded under this subsection if the violation of law was committed while the vehicle was unlawfully in the possession of a person other than the owner of the vehicle.

(b) A vehicle may be impounded upon issuance of a citation if the vehicle is found parked upon any highway or public property of the Commonwealth and the vehicle is not properly registered or the license plates are not properly displayed.

(c) A common carrier in transaction of business shall not be impounded under this subsection unless the officer has probable cause to believe that the owner or operator of the vehicle was a consenting party or was aware of the violation of law.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

### **§ 150-100-105 Impoundment upon Court Order**

(a) The Department of Public Safety will impound a vehicle upon order of any court of the Commonwealth. Provided, any vehicle impounded under this section shall be subject to all applicable impound fees.

(b) The Commonwealth shall be a necessary party to any court hearing which may result in an order releasing a vehicle without the payment of the required fees.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

### **§ 150-100-110 Impoundment without Citation**

(a) A vehicle may be impounded if the operator of the vehicle is arrested.

(b) A vehicle may be impounded if the vehicle is the subject of a search warrant.

(c) A vehicle may be impounded if it is subject to inspection under an administrative inspection warrant.

(d) A vehicle may be impounded if it is blocking a private driveway.

(e) A vehicle may be impounded if it has been left unattended on public property for more than seventy-two hours.

(f) A vehicle may be impounded if an officer has probable cause to believe that the vehicle has been stolen.

(g) A vehicle may be impounded if an officer has probable cause to believe that the vehicle poses a danger to health or safety. The Department of Public Safety has determined that the following circumstances always pose a danger to the health and safety of the community:

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- (1) When the vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic;
  - (2) When a vehicle has been left unattended on a public highway for more than seventy-two hours;
  - (3) When the operator of a vehicle is incapacitated to such an extent that they are unable to take custody of a vehicle or remove it from its location;
  - (4) When a vehicle is being operated upon a public highway and is not equipped with brakes in good working condition as required by 9 CMC § 4104;
  - (5) When a vehicle transporting explosives is not in full compliance with 9 CMC § 4113 or any other applicable law;
  - (6) When a vehicle is parked within 15 feet of the driveway to a fire station.
  - (7) When a vehicle is parked within 15 feet of a fire hydrant;
  - (8) When a vehicle is unattended while the engine is running;
  - (9) When a vehicle is unattended and not properly braked;
  - (10) When a vehicle is unattended, upon a grade, and the wheels are not turned towards the closest curb or side of the highway.
- (h) When an officer has probable cause to believe that the vehicle constitutes evidence of a crime or contains evidence of a crime, if impoundment is reasonably necessary in such instance to obtain or preserve such evidence.

Modified, 1 CMC § 3806(e).

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

Commission Comment: The Commission struck the figure “72” from subsections (e) and (g)(2) pursuant to 1 CMC § 3806(e).

### **§ 150-100-115 Impoundment of Government Vehicles**

- (a) A government vehicle may be impounded under any applicable section of this chapter.
- (b) A government vehicle shall be impounded if the operator or the vehicle is found in violation of 1 CMC § 7406.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

## **Part 200 - Impoundment Process**

### **§ 150-100-201 Impoundment—Method**

When impoundment is authorized by this chapter, a vehicle may be impounded either by an officer or authorized agent of the Department of Public Safety or by a contractor for towing and storage acting at the request of an officer or authorized agent of the Department of Public Safety.

Modified, 1 CMC § 3806(a).

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

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Commission Comment: The 2015 regulation listed the entire text of this section as subsection (a). As there were no other subsections, the Commission removed the subsection designation pursuant to 1 CMC § 3806(a).

### § 150-100-205 Notification to Owner

(a) Not more than forty-eight hours after impoundment of any vehicle, the Department of Public Safety or the tow contractor shall mail a notice by first class mail to the last known and legal owners of the vehicles, as may be disclosed by the vehicle identification number, and as provided by the Bureau of Motor Vehicles. The notice shall contain the justification for the impoundment and the procedures for release of the vehicle.

(b) Similar notice shall be given to each person who seeks to redeem an impounded vehicle, except that if a vehicle is redeemed prior to the mailing of notice, then notice need not be mailed.

(c) If the Department of Public Safety is unable to provide notice by mail, then the Department may use telephone, email, or any other form of communication to inform the owner of the impoundment. Provided, that the Department of Public Safety may not rely upon alternative notice unless the owner has acknowledged notice in writing.

(d) If the vehicle was impounded because it constituted evidence of a crime or contained evidence of a crime, then the Department of Public Safety shall give written notification to the last registered and legal owner when the investigatory hold has been removed, except that if a vehicle is redeemed following notice by telephone or other means, prior to the mailing of notice, then notice need not be mailed.

(e) If the Department of Public Safety is unable to provide notice required by any provision in this chapter and the owner has not acknowledged actual notice in writing, then the Department of Public Safety shall retain documentation of its attempt to notify the owner of the impounded vehicle. Thereafter, the Department of Public Safety may provide notice by publication in a newspaper of general circulation once a week for four successive weeks.

Modified, 1 CMC § 3806(e).

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

Commission Comment: The Commission struck the figure “48” from subsection (a) pursuant to 1 CMC § 3806(e).

### § 150-100-210 Personal Property

(a) All personal belongings and contents in the vehicle, with the exception of those items of personal property that are registered or titled with the department or that constitute evidence of a crime, shall be kept intact, and shall be returned to the vehicle’s owner or agent during normal business hours upon request and presentation of a driver’s license or other sufficient identification. Personal belongings shall not be sold at auction to fulfill a lien against the vehicle.

(b) The Department of Public Safety shall conduct an administrative search of any impounded vehicle and record all personal property found within the vehicle. The record of

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personal items shall be made available to the owner or authorized agent of the owner upon request.

(c) All personal belongings not claimed before the auction shall be retained by the Department of Public Safety, disposed of at auction, donated, or destroyed.

(d) Any person who shows proof of ownership or written authorization from the impounded vehicle's registered or legal owner or the vehicle's insurer may view the vehicle without charge during normal business hours.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

### § 150-100-215 Record of Impounded Vehicles

(a) The Department of Public Safety shall keep, and make available for public inspection, a record of all vehicles impounded under the provisions of this chapter. The record shall include at least the following information:

- (1) Manufacturer's trade name or make;
- (2) Vehicle license number and state of registration;
- (3) Vehicle identification number;
- (4) Such other descriptive information as the Commissioner deems useful for purposes of vehicle identification;
- (5) Basis for impoundment, including reference to the appropriate section or sections of the impound regulations; and
- (6) Disposition of the vehicle and date of disposition.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

### § 150-100-220 Release of Vehicle

(a) If a vehicle is unregistered, then the vehicle shall not be released until the Department of Public Safety is provided with proof that all registration fees have been paid. Thereafter, the vehicle may be released, but the operator shall immediately complete the registration of the vehicle.

(b) If a vehicle is not insured as required by law, then the Department of Public Safety shall not release the vehicle until proof of valid insurance is provided to the Department of Public Safety.

(c) The vehicle may be redeemed only by the following persons or entities:

- (1) the legal owner;
- (2) the registered owner;
- (3) a person authorized by the registered owner on a form provided by the Department of Public Safety;

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- (4) the vehicle's insurer or a vendor working on behalf of the vehicle's insurer, provided that the insurer or vendor is authorized by the registered owner on a form provided by the Department of Public Safety;
- (5) any person in possession of a court order requiring the release of the vehicle. All fees due and owing shall be paid prior to release under this subsection, unless the court order requires the Department of Public Safety to release the vehicle without payment of the required fees.
- (d) A person redeeming an impounded vehicle must, prior to redemption, establish that he or she has a valid driver's license and that the vehicle is properly insured.
- (e) Any person redeeming a vehicle impounded by the Department of Public Safety shall pay all applicable fees prior to redeeming such vehicle. Upon payment of the fees, the vehicle may be released from impoundment.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

### **§ 150-100-225 Release of Government Vehicle**

- (a) Government vehicles are subject to all fees and charges provided for by this chapter. The individual responsible for the vehicle being impounded will be liable for all fees provided for by this chapter.
- (b) If a government vehicle is impounded, then it will only be released to the Director or chief officer of the government agency that owns or is responsible for the motor vehicle.
- (c) If a government vehicle is impounded while being operated by a Director or chief officer of a government agency, then the vehicle shall not be released until the Department of Public Safety receives a written request for release from the Office of the Governor.
- (d) If a government vehicle is impounded while being operated by a Director or chief officer of an agency governed by a Board of Directors or an equivalent, then the vehicle shall not be released until the Department of Public Safety receives a written request for release from the Chairperson or equivalent of said board.
- (e) If a government vehicle is impounded and the vehicle is not in compliance with 1 CMC § 7406, then the Department of Public Safety shall not release the vehicle until the Department of Public Safety is satisfied that the vehicle will be brought into immediate compliance with 1 CMC § 7406 upon its release.
- (f) If the person operating the government vehicle is unable or unwilling to pay the required fees to release the vehicle, then the Department of Public Safety may allow the appropriate government agency to pay the impound fees. Provided, that the Department of Public Safety shall immediately notify the Office of the Attorney General and the Office of the Public Auditor to ensure that the liable party reimburses the Commonwealth.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

**§ 150-100-230 Administrative Hearing**

- (a) Any person seeking to redeem a vehicle impounded has a right to an administrative hearing to contest the validity of an impoundment or the associated fees and charges.
- (b) Any person seeking to hold the Department of Public Safety liable for damages to a vehicle or its contents resulting from vandalism, towing, or theft has a right to an administrative hearing.
- (c) A request for hearing shall:
- (1) be in writing;
  - (2) be signed by the petitioner or the petitioner's attorney;
  - (3) identify and describe the grounds for contesting the impoundment, the associated fees, the damages to the vehicle, or the damages to the contents of the vehicle; and
  - (4) must be served upon the Department of Public Safety by delivering a copy of the petition to the Department of Public Safety.
- (d) A challenge to the validity of the impoundment must be initiated within fifteen calendar days of impoundment.
- (e) A challenge to the validity of the fees associated with the impoundment must be made prior to the redemption of the vehicle or within fifteen calendar days of the redemption of the vehicle.
- (f) The Department of Public Safety shall have the burden of proof in any challenge to the validity of an impoundment or the validity of fees associated with the impoundment. The standard of proof required shall be a preponderance of the evidence.
- (g) A claim for damages associated with the impoundment must be made within the time allowed by law.
- (h) A person making a claim for damages associated with the impoundment shall have the burden of proof. The standard of proof required shall be a preponderance of the evidence.
- (i) Any person seeking a hearing who has failed to request such hearing within the time specified in this subsection may petition the Department of Public Safety for an extension to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. In the event such extension is granted, the person receiving such extension shall be granted a hearing in accordance with this chapter. This subsection is inapplicable if the claim is barred by the statute of limitations.
- (j) If a person fails to file a timely request for a hearing and no extension to file such a request has been granted, the right to a hearing is waived, the impoundment and the associated costs of impoundment and administrative fee are deemed to be proper, and the owner of the vehicle shall be liable for all fees arising from the impoundment.



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(k) In accordance with the Administrative Procedure Act, a decision made by the Department of Public Safety may be appealed to the Commonwealth Superior Court.

Modified, 1 CMC § 3806(g)

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

Commission Comment: The Commission corrected the spelling of the word “calendar” in subsection (e) pursuant to 1 CMC § 3806(g).

### § 150-100-235 Waiver of Fees

(a) No fee of any kind shall be assessed against the owner of a vehicle which is being held as a result of:

- (1) a search warrant;
- (2) an administrative inspection warrant;
- (3) the Department’s determination that the vehicle was stolen; or
- (4) investigatory purposes.

(b) Notwithstanding this section, the vehicle must be redeemed within forty-eight hours after the Department of Public Safety has notified the owner of the release of such vehicle in writing or by publication; provided that such owner or person authorized to obtain possession of such impounded vehicle shall pay any charges assessed for storage after such forty-eight hour period; provided further, that if the registered owner or the driver authorized by the registered owner is arrested or charged with a crime in connection with the incident leading to impoundment, the owner of the vehicle shall be liable for all fees.

Modified, 1 CMC § 3806(e).

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

Commission Comment: The Commission struck the figure “48” from subsection (b) pursuant to 1 CMC § 3806(e).

### § 150-100-240 Abandoned Vehicles

(a) Any impounded vehicle not redeemed within thirty days of mailing of the notice required by § 150-100-205 shall be deemed abandoned.

(b) A vehicle held pursuant to an order of a Commonwealth court shall not be considered abandoned. Provided, that the Department of Public Safety may petition the Court for the payment of impound fees directly or by auctioning the vehicle.

(c) A government vehicle shall not be considered abandoned.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

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Commission Comment: The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission struck the figure “30” from subsection (a) pursuant to 1 CMC § 3806(e).

### § 150-100-245 Auction of Impounded Vehicles

(a) If a vehicle has been abandoned after impoundment, then the Department of Public Safety shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction, and a method to contact the Department of Public Safety, in a newspaper of general circulation, not less than three days before the date of the auction.

(b) The notice shall contain a notification that a public viewing period will be available before the auction and the length of the viewing period. The auction shall be held during daylight hours of a normal business day. The viewing period must be one hour if ten or fewer vehicles are to be auctioned, two hours if more than ten vehicles and fewer than thirty vehicles are to be auctioned, and three hours if thirty or more vehicles are to be auctioned.

(c) The following procedures are required in any public auction of such abandoned vehicles:

- (1) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;
- (2) All bidders must be present at the time of auction unless they have submitted to the Department of Public Safety, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;
- (3) The open bid process, including all written bids, shall be used so that all potential bidders know the dollar value that must be exceeded;
- (4) The highest five bids received shall be recorded in written form and shall include the name, address, and telephone number of each such bidder;
- (5) In case the high bidder defaults, the next bidder has the right to purchase the vehicle for the amount of his or her bid;
- (6) The successful bidder shall apply for title within fifteen days;
- (7) The Department of Public Safety shall post a copy of the auction procedure at the bidding site. If the bidding site is different from the licensed office location, the operator shall post a clearly visible sign at the office location that describes in detail where the auction will be held. At the bidding site a copy of the newspaper advertisement that lists the vehicles for sale shall be posted.

(d) All surplus moneys derived from the auction after satisfaction of all fees shall be remitted to the owner of the motor vehicle or person having the legal right to receive said funds. If the Department of Public Safety is unable to locate or identify the person that has a right to receive said funds, then the Department of Public Safety shall deposit the funds into an account capable of holding and segregating the funds from other general revenues.

(e) If the surplus funds are not claimed within one year of the sale, then the Department of Public Safety shall publish notice that the funds remain unclaimed. If no person claims the funds within fifteen calendar days thereafter, then the Department of Public Safety shall be entitled to the surplus funds.

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(f) If the Department of Public Safety receives no bid, or if the Department of Public Safety is the successful bidder at auction, then the Department shall, within forty-five calendar days apply for title to the vehicle, sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor.

(g) The Department of Public Safety may refuse to accept a bid at an abandoned vehicle auction under this chapter for any reason in the Department's posted operating procedures and for any of the following reasons:

(1) The Department of Public Safety has knowledge that the bidder has previously abandoned vehicles purchased at auction; or

(2) The Department of Public Safety has knowledge that the bidder has previously defaulted on vehicles purchased at auction within the previous twelve months.

(h) If a person submits a bid for a vehicle and does not tender payment within twenty-four hours, then the Department of Public Safety may file an appropriate lawsuit against the successful bidder to recover damages.

Modified, 1 CMC § 3806(g).

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

Commission Comment: The Commission corrected a semicolon to a period in subsection (c)(7), corrected the spelling of the word "calendar" in subsection (f), and removed a surplus comma from subsection (f) pursuant to 1 CMC § 3806(g).

### **Part 300 - Fees**

#### **§ 150-100-301 Fees**

(a) All impounded vehicles shall be subject to an administrative fee.

(b) All vehicles that are towed to the storage facility shall be subject to a towing fee.

(c) Any vehicle stored by the Department of Public Safety for more than twenty-four hours shall be subject to a storage fee calculated on a per day basis. There shall be no charge for the first 24 hours of storage of vehicle.

(d) All vehicles sold at public auction shall be subject to an auction fee.

(e) The Department of Public Safety shall be reimbursed for all costs of publication or notice by publication.

(f) The Department of Public Safety shall be entitled to all fees paid under the Department of Public Safety Vehicle Impound Regulations.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).

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**§ 150-100-305 Fee Schedule**

Administrative Fee	\$50.00
Towing Fee	\$45.00 if vehicle is towed by Department of Public Safety Officer.
Towing Fee	Actual cost if vehicle is towed by a contractor.
Storage Fee	\$10.00 per day.
Auction Fee	\$50.00
Publication Fee	Actual cost.

History: Adopted 36 Com. Reg. 36000 (Jan. 28, 2015); Proposed 36 Com. Reg. 35970 (Dec. 28, 2014).