

**DEPARTMENT OF PUBLIC SAFETY
DIVISION OF STATE PATROL**

**RULES AND REGULATIONS
CONCERNING
MINIMUM STANDARDS FOR THE OPERATION
OF COMMERCIAL VEHICLES**

8 CCR 1507-1

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to 42-4-235 (4) (a) (I), CRS, the Chief of the Colorado State Patrol has the authority to promulgate rules and regulations regarding the minimum operating standards for commercial vehicles within the state of Colorado.

Amendments are being proposed to 8 CCR 1507-1:

- Adopting updated editions of the FMCSRs and CVSA Inspection and Out-of-Service Criteria;
- Reconciling and clarifying references to state statutes, related state rules, and federal regulations specifically provisions applicable to Hours of Service and CDL drivers under 21 operating interstate pursuant to federal regulations as also recognized by the Colorado Revised Statutes;
- Clarifying the hearing and appeals process applicable to CDL Medical Waiver revocations;
- Updating references for all incorporated or adopted guidelines, publications and standards;
- Introducing new definitions applicable to these rules and standardizing the use of repetitious phrasing, updating and applying acronyms and abbreviations to these rules as appropriate throughout;
- Updating formatting of the rules in their entirety, applying paragraph subtitles and other formatting elements consistent with recommendations made by the Colorado Secretary of State; and
- Introducing a severability clause into these rules.

It has been declared by the General Assembly that the safe operation of commercial vehicles is a matter of statewide concern. The absence of implementing rules to carry out the purpose of the statutes is contrary to the public health, peace, safety, and welfare of the state. For these reasons, it is necessary that these proposed amendments are adopted.

Colonel Matthew C. Packard
Chief, Colorado State Patrol

Date of Adoption

DEPARTMENT OF PUBLIC SAFETY
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MCS 1: **AUTHORITY TO ADOPT STANDARDS AND SPECIFICATIONS.** The Chief of the Colorado State Patrol (~~CSP~~) is authorized by the provisions of §42-4-235 (4) (a) (I), CRS, to adopt rules and regulations for safety standards and specifications for the operation of all commercial vehicles in Colorado, both in interstate and intrastate transportation.

MCS 2:I. **APPLICABILITY.** **A.**—These rules and regulations apply to individuals, corporations, Colorado government or governmental subdivisions or agencies, or other legal entities who operate commercial vehicles as **THEY ARE** defined in § 42-4-235 (1) (a), CRS.

- 2.1.** ~~1.~~ **COMPLIANCE WITH 8 CCR 1507-25 AS APPROPRIATE.** In addition to this rule, any person who transports hazardous materials as defined in 49 CFR 171.8 **AND** §42-20-103 (3), CRS, and/or nuclear materials, as defined in §42-20-402 (3) (a) - (c), CRS, ~~shall~~ **MUST** ~~comply~~ **OPERATE CONSISTENT** with 8 CCR 1507-25, the CSP Rules and Regulations Concerning the Permitting, Routing, and Safe Transportation of Hazardous and Nuclear Materials and the Intrastate Transportation of Agricultural Products in the state of Colorado ~~found in 8 CCR 1507-25.~~
- 2.2.** ~~2.~~ **APPROVAL OF TEMPORARY RULE VARIANCE(S).** ~~The CSP Motor Carrier Safety Section (MCSS) may consider and grant requests for temporary variance from the rules in 8 CCR 1507-1, for intrastate commercial motor carriers only, provided the variance is not in violation of §42-4-235, CRS.~~ **PROVIDED A VARIANCE IS NOT IN VIOLATION OF §42-4-235, CRS, THE CSP MOTOR CARRIER SAFETY SECTION (MCSS) MAY CONSIDER AND GRANT REQUESTS OF INTRASTATE COMMERCIAL MOTOR CARRIERS FOR TEMPORARY VARIANCES FROM THESE RULES.**

MCS 3:II. **GENERAL DEFINITIONS.** **A.**—**THE FOLLOWING DEFINITIONS APPLY THROUGHOUT THESE RULES UNLESS OTHERWISE SPECIFIED.** Definitions relevant to these rules are found in Title 49 of the Code of Federal Regulations (~~CFR~~). These definitions are amended, where necessary, to conform to the Colorado Revised Statutes (~~CRS~~). Those definitions controlled by the CRS that are **GENERALLY** applicable to these rules are ~~referenced below~~ **SET FORTH HEREIN.**

- 3.1. CDL: COMMERCIAL DRIVERS LICENSE.**
- 3.2. CDOR: COLORADO DEPARTMENT OF REVENUE.**
- 3.3. CDOT: COLORADO DEPARTMENT OF TRANSPORTATION.**

- 3.4. **CDPS:** COLORADO DEPARTMENT OF PUBLIC SAFETY.
- 3.5. **CFR:** CODE OF FEDERAL REGULATIONS.
- 3.6. **CHIEF:** MEANS THE CHIEF OF THE COLORADO STATE PATROL, OR HIS OR HER DESIGNEE AS APPROPRIATE, UNLESS OTHERWISE SPECIFIED.
- 3.7. **1-Commercial Vehicle:** The definition of commercial vehicle will be as set forth in §42-4-235 (1) (a), CRS.
- 3.8. **CRS:** COLORADO REVISED STATUTES.
- 3.9. **CRU:** COLORADO STATE PATROL CENTRAL RECORDS UNIT.
- 3.10. **CSP:** COLORADO STATE PATROL.
- 3.11. **CVSA:** COMMERCIAL VEHICLE SAFETY ALLIANCE.
- 3.12. **2-Enforcement Official:** The definition of enforcement official will be as it is **DEFINED BY** §§16-2.5-101, 16-2.5-114, 16-2.5-115, and 16-2.5-143, and also as set forth in §42-20-103 (2), CRS.
- 3.13. **FMCSA:** FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.
- 3.14. **FMCSR:** FEDERAL MOTOR CARRIER SAFETY REGULATIONS, AKA 49 CFR 40 - 399 AND ITS APPENDICES.
- 3.15. **GCWR:** GROSS COMBINED WEIGHT RATING.
- 3.16. **GVWR:** GROSS VEHICLE WEIGHT RATING.
- 3.17. **LLC:** LIMITED LIABILITY COMPANY OR LIMITED LIABILITY CORPORATION.
- 3.18. **MCSS:** COLORADO STATE PATROL MOTOR CARRIER SAFETY SECTION.
- 3.19. **3-Motor Carrier:** The definition of motor carrier will be as it is set forth in §42-4-235 (1) (c), CRS.
- 3.20. **MOU:** MEMORANDUM OF UNDERSTANDING.
- 3.21. **OOS:** OUT-OF-SERVICE.
- 3.22. **PUC:** PUBLIC UTILITIES COMMISSION.
- 3.23. **UFA:** UNIFORM FINE ASSESSMENT.
- 3.24. **USDOT NUMBER:** THE NUMBER ASSIGNED TO A MOTOR CARRIER BY THE FMCSA. THIS NUMBER CAN BE FOR INTRASTATE OR INTERSTATE USE, DEPENDING UPON THE INFORMATION PROVIDED BY THE MOTOR

CARRIER TO THE FMCSA AT THE TIME OF APPLICATION SUBMISSION OR BIENNIAL UPDATE.

MCS 4:III. AUTHORITY TO INSPECT VEHICLES, DRIVERS, CARGO, BOOKS AND RECORDS. AUTHORIZED ENFORCEMENT OFFICIALS WILL AT ALL TIMES HAVE THE AUTHORITY TO INSPECT COMMERCIAL VEHICLES, COMMERCIAL VEHICLE DRIVERS, CARGO, AND ANY REQUIRED DOCUMENTS CONSISTENT WITH PART MCS 4 OF THESE RULES.

- 4.1. A. SAFETY INSEPTIONS.** Enforcement officials who are authorized to perform motor vehicle safety inspections on commercial motor vehicles and drivers, shall be **ARE** required to meet the inspector qualifications set forth in §42-4-235 (4) (a) (I), CRS, while performing a Level I North American Standard Safety Inspection.
- 4.1.1.** All enforcement officials performing Level I – VI North American Standard Safety Inspections must maintain **THE** certifications requirements prescribed in the **CURRENT PUBLISHED Commercial Vehicle Safety Alliance (CVSA) Operations Manual.**
- 4.2. B. AUTHORITY TO INSPECT.** Authorized enforcement officials at all times have the authority to inspect commercial vehicles, commercial vehicle drivers, cargo, and any required documents, **AS SUCH DOCUMENTS ARE APPLICABLE TO TRANSPORT BY 8 CCR 1507-25 AND/OR AS ARE** set forth in 49 CFR, Subchapter B, Parts 383, 387, 390, 391, 392, 393, 395, 396, 397, and 399, as revised October 1, 2019**2020.**
- 4.3. C. AUTHORITY TO CONDUCT COMPLIANCE REVIEWS AND SAFETY AUDITS.** CSP enforcement officials who are certified by the Federal Motor Carrier Safety Administration (FMCSA) pursuant to 49 CFR 385, Subpart C, to perform compliance reviews and safety audits shall have the authority to enter the facilities of and inspection any motor carrier, as defined in §42-4-235 (1) (c), CRS. and **INSPECTION INCLUDES THE REVIEW OF any required records and supporting documents AS MAY BE APPLICABLE THROUGH 8 CCR 1507-25 AND/OR AS THEY ARE IDENTIFIED AND** defined in 49 CFR, Subchapter B, Parts 40, 380, 382, **383**, 385, 387, 390, 391, 392, 393, 395, 396, 397, 399 and Appendix G, CFR, as revised October 1, 2019**2020.**

MCS 5:IV. INSPECTIONS STANDARDS AND REPORTS. A. Through **AN** a Memorandum of Understanding (MOU) with the CVSA, dated October 1, 2019, the CSP adopts the standards and procedures established for the inspection of commercial vehicles, collectively known as the North American Uniform Driver/Vehicle Inspection.

5.1. B. CVSA BYLAWS AS GENERAL INSPECTION GUIDELINES. Authorized enforcement officials performing safety inspections on commercial vehicles, drivers, and cargo shall **WILL** use as general guidelines the levels, methods of inspections, and ~~Out-of-Service~~ **OOS** criteria found in the CVSA bylaws, as **THEY ARE** revised **AND EFFECTIVE** April 1, ~~2020~~**2021**.

5.2. C. MINIMUM INFORMATION AND REPORT DISPOSITION. Authorized enforcement officials shall **WILL, UPON THE** ~~on~~ completion of each inspection, prepare a report which, at **A** minimum, identifies the inspector, the inspector's agency, the carrier's name and address **OF THE MOTOR CARRIER**, the date and time of the inspection, the location of the inspection, the vehicle, **AND** the driver, ~~the~~ **ANY** defects **OR VIOLATIONS** found, ~~if any~~ and the disposition of the vehicle. A copy of the inspection report shall **WILL** be given **PROVIDED** to the driver or motor carrier.

MCS 6:V. STATE ADOPTION OF FMCSR. ~~A.~~ All intrastate and interstate motor carriers, commercial vehicles, and driver**S** thereof, operating with ~~IN the state of Colorado shall~~ **MUST** operate in compliance **CONSISTENT** with the safety regulations ~~contained~~ **DETAILED WITHIN** in:

49 CFR 40	Procedures for Transportation Workplace Drug and Alcohol Testing Programs
49 CFR 380	Special Training Requirements
49 CFR 382	Controlled Substances and Alcohol Use and Testing
49 CFR 385 Subparts C & D	Safety Fitness Procedures
49 CFR 387	Minimum Levels of Financial Responsibility for Motor Carriers
49 CFR 390	Federal Motor Carrier Safety Regulations: General
49 CFR 391	Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors
49 CFR 392	Driving of Commercial Motor Vehicles
49 CFR 393	Parts & Accessories Necessary for Safe Operation
49 CFR 395	Hours of Service of Drivers
49 CFR 396	Inspections, Repair, and Maintenance
49 CFR 397	Transportation of Hazardous Materials, Driving and Parking Rules

of the ~~United States Department of Transportation's Motor Carrier Safety Regulations~~ **FMCSR** as the same were in effect on October 1, ~~2019~~**2020** and published in Title 49 of the ~~Code of Federal Regulations (CFR)~~, Subtitle B, Chapter III, Parts 200 through 399, with references therein, with the following modifications **AS ARE NECESSITATED BY STATE LAW AND SET FORTH BY THESE RULES.**

- 6.1.1. INTRASTATE COMMERCE INCLUDED.** Unless otherwise specified, all references to interstate commerce **BY THE FMCSR** shall **ALSO** include intrastate commerce **FOR THE PURPOSES OF THESE RULES.**
- 6.2.2. ENTRY-LEVEL DRIVER TRAINING.** 49 CFR 380.509 (a) shall be **IS** amended to read: "Each employer must ensure each entry-level driver, who first begins operating a commercial motor vehicle requiring a ~~commercial driver's license~~ **CDL** under §42-2-404, CRS, receives the training required by 49 CFR 380.503."
- 6.3.3. NEW ENTRANT SAFETY PROGRAM.** 49 CFR 385.301 (b) and (c), through 385.305 and 385.319 (b) through 385.337 shall not apply **ARE NOT APPLICABLE.**
- 6.3.1.** 49 CFR 385.309 through 385.319 (a), hereafter referred to **COLLECTIVELY** as the Colorado Intrastate New Entrant Safety Assurance Program, shall apply **APPLIES** to intrastate motor carriers who are beginning in intrastate operations and are required to obtain an intrastate USDOT identification number from the FMCSA.
- 6.3.2.** Intrastate motor carriers can confirm if they need a USDOT number and complete an **INTRASTATE** application online by going to [HTTPS://WWW.FMCSA.DOT.GOV/REGISTRATION/DO-I-NEED-USDOT-NUMBER](https://www.fmcsa.dot.gov/registration/do-i-need-usdot-number). ~~A prior interstate safety audit or compliance review shall meet the requirement for an intrastate safety audit.~~
- ~~i. Safety audits on interstate carriers beginning operations in Colorado must submit to a Safety Audit as defined in 49 CFR 385.3.~~
- 6.3.3. a.** All interstate motor carriers beginning operations in Colorado must submit to a ~~S~~safety ~~A~~audit as defined in 49 CFR 385.3. **SAFETY AUDITS ON INTERSTATE CARRIERS BEGINNING OPERATIONS IN COLORADO MUST SUBMIT TO A SAFETY AUDIT CONSISTENT WITH 49 CFR 385.3.**
- 6.3.4. b.** All intrastate motor carriers beginning operations in Colorado are eligible for the Colorado Intrastate New Entrant Safety Assurance

Program. New intrastate carriers may schedule training by contacting the CSP-MCSS. **A PRIOR INTERSTATE SAFETY AUDIT OR COMPLIANCE REVIEW WILL MEET THE REQUIREMENT FOR AN INTRASTATE SAFETY AUDIT.**

6.4.4. FINANCIAL RESPONSIBILITY (INSURANCE) OF MOTOR CARRIERS.

Pursuant to §42-4-235 (4) (a) (I), CRS, the financial responsibility and insurance provisions of these rules do not apply to commercial vehicles regulated by the Colorado Public Utilities Commission (PUC). These provisions also do not apply to those commercial vehicles operated by river outfitters regulated by the Colorado Department of Natural Resources, Division of Wildlife, under 2 CCR 405-3. These noted exceptions aside, 49 CFR 387.1 through 387.17, 387.303, 387.305 and 387.309 shall **ARE APPLICABLE** to the operation of commercial vehicles **IN COLORADO** with the following exceptions:

6.4.1.a. 49 CFR 387.7 (e) and (g) shall **DO** not apply.

6.4.2.b. 49 CFR 387.9 (4) applies only to interstate and foreign commerce.

6.4.3.c. Transportation carriers may obtain a certificate of self insurance issued pursuant to §42-7-501, CRS, or 49 CFR 387.

6.4.4.d. Motor carriers subject to these rules shall **MUST** carry a minimum level of cargo liability coverage of \$10,000 for loss or damage to property carried on any one motor vehicle, or an amount adequate to cover the value of the property being transported, whichever is less, unless the shipper and the property carrier otherwise agree by written contract to a lesser amount.

6.5.5. AMENDED GENERAL APPLICABILITY OF THE FMCSR. 49 CFR 390.3T (f), (1) – (2) and (6) shall **DO** not apply.

6.6.6. AMENDED APPLICABILITY OF FMCSR DEFINITIONS. THE FOLLOWING DEFINITIONS SET FORTH WITHIN 49 CFR 390.5T ARE HEREBY AMENDED BY THESE RULES:

6.6.1.a. The definitionS of “Commercial Motor Vehicle” and “Motor Carrier” shall **DO** not apply.

6.6.2.b. The definition of an “Emergency” is amended by adding **THROUGH** the **ADDITION OF THE** following: “A governmental agency has determined that a local emergency requires relief from the maximum driving time in 49 CFR 395.3 or 395.5.”

6.7.7. AMENDED MOTOR CARRIER IDENTIFICATION REQUIREMENTS. 49 CFR 390.19T (a) is amended to read: “Each motor carrier that conducts operations in intrastate commerce must apply for and receive an intrastate USDOT identification Number prior to beginning operations within the state. The motor carrier is required to update this information every 24 months.”

6.7.1.a. Identification—USDOT numbers for intrastate motor carriers are processed by the ~~Federal Motor Carrier Safety Administration (FMCSA).~~

6.7.2.8. 49 CFR 390.21T (b) is amended THROUGH THE ADDITION OF the following: “Intrastate carriers must mark their vehicles with the assigned intrastate USDOT identification number, preceded by the letters “USDOT” and followed by the suffix “CO” (e.g.: USDOT 1234567 CO).

6.7.2.1.a.—Motor carriers operating in intrastate commerce, not transporting 16 or more passengers (including the driver) or transporting placarded hazardous materials and having a GVWR or GCWR equal to or in excess of 16,001 lbs., but not in excess of 26,000 lbs., may meet the marking requirements of 49 CFR 390.21T by marking the trailer or secondary unit, if the GVWR of the self-propelled unit **ITSELF** is less than 16,001 lbs.

6.7.2.2.b.—In the interests of public safety, **INTRASTATE MOTOR CARRIERS WHO OPERATE AS** repossessors as defined within §42-6-146 (4), CRS, operating interstate, are not subject to the marking requirements of 49 CFR 390.21T.

6.8.9. AGE OF CDL DRIVERS OPERATING IN INTERSTATE COMMERCE. 49 CFR 391.11 (b) (1) ~~shall be~~ **IS** amended to read: “Is at least 21 years old if engaged in interstate commerce or transporting hazardous materials of a type or quantity that would require the vehicle to be marked or placarded under 49 CFR 177.823, **WITH THE EXCEPTION OF DRIVERS OPERATING INTERSTATE PURSUANT TO A WAIVER ISSUED THROUGH THE FMCSA MILITARY PILOT PROGRAM, OR ANY OTHER APPROVED NON-MILITARY EXTENSION THEREOF AND AS RECOGNIZE CONSISTENT WITH §42-2-404 (4) (b), CRS.** All other drivers **OPERATING INTRASTATE ONLY** must be at least 18 years of age.”

6.9.10. AMENDING HOURS OF SERVICE AND APPLICABILITY THEREOF. THE HOURS OF SERVICE REGULATIONS SET FORTH WITHIN 49 CFR 395 ARE AMENDED AS FOLLOWS:

6.9.1. Public transit agency carriers and their drivers operating in intrastate commerce may ~~meet~~ **SATISFY** the requirements ~~in~~ **OF** 49 CFR 395.1 (e) 1) (ii) by either meeting the existing regulation, or by replacing 49 CFR 395.1 (e) (1) (2) with “the driver is released from work within 12 consecutive hours.”

~~6.9.2.11.~~ 49 CFR 395.3 or 395.5 shall **DO** not apply to drivers of either Colorado governmental vehicles or tow trucks working an emergency, as defined in 49 CFR 390.

~~6.9.3.12.~~ 49 CFR 395.3 shall **DOES** not apply to tow drivers who are towing a vehicle from a public roadway at the request of a public officer or other law enforcement purpose.

~~6.9.4.13.~~ Drivers transporting livestock, poultry, slaughtered animals or the grain, corn feed, hay, etc., used to feed animals are eligible to use the agricultural operations exception in 49 CFR 395.1 (k).

~~6.9.5.14.~~ 49 CFR 395.1 (k) is amended to read: "Is conducted during the planting and harvesting seasons within Colorado as determined by the Department of Agriculture to be from January 1 to December 31."

6.10.15. REFERENCES TO FEDERAL AGENCIES TO INCLUDE STATE AGENCIES.

All references to federal agencies and authorized personnel shall **ARE** be construed to include the CSP, PUC, and other **STATE OR LOCAL** enforcement agencies with **HAVING** a signed MOU with the CSP and their authorized personnel.

6.11.16. FILING OF INFORMATION RELATED TO FMCSR REPORTING

REQUIREMENTS. All **MOTOR CARRIER AND DRIVER** reporting requirements **ADOPTED BY 8 CCR 1507-25 AND/OR** referred to in 49 CFR 40, 368, 380, 382, 383, 385, 387, 390, 391, 392, 393, 395, 396, 397, and 399 shall **MUST** be filed with or **DELIVERED BY MUTUALLY AGREED UPON METHODS** provided upon request to the MCSS **AT** 15075 S. Golden Rd., Golden, CO., 80401, or by mutually agreed upon methods of electronic document delivery.

~~6.12.17.~~ **CDL MEDICAL QUALIFICATIONS.** These rules and regulations apply to all vehicles which meet **ING** the definition of a commercial vehicle set forth in §42-4-235 (1) (a), CRS, and drivers which who meet the definition of "Driver" as described in 49 CFR 390.5, with the following exceptions:

~~6.12.1.1.~~ Drivers of intrastate vehicles and combination of vehicles **VEHICLE COMBINATIONS** with having a gross vehicle weight rating (GVWR) or gross combined weight rating (GCWR) of not more than 26,000 pounds lbs., and which do not require **NOT REQUIRING** a commercial drivers license CDL to operate, are not subject to 49 CFR 391, Subpart E, Physical Qualifications and Examinations.

~~6.12.2.2.~~ Vehicles owned and operated by the Federal Government or state government or political subdivision thereof not domiciled in Colorado, which are not transporting hazardous materials of a type and quantity that

~~requires~~ **REQUIRING** the vehicle to be marked or placarded under 49 CFR 172.504.

6.12.3.3.—The operation of authorized emergency vehicles, as defined in §42-1-102 (6), CRS, while in emergency and related operations.

6.12.4.4.—The operations of snowplows, as defined in §42-1-102 (91), CRS, and all other vehicles engaged in supporting the use thereof when snowplows are removing snow/ice from the roadway or **ENGAGED IN** related snow/ice removal operations.

MCS 7.C.— **TRACTION DEVICES REQUIRED.** Drivers operating a commercial vehicle as defined in Colorado Department of Transportation (CDOT) rule 2 CCR 601-14, with the exception of mobile cranes, operated on Interstate 70 between milepost 133 and milepost 259 from September 1st to May 31st inclusive, must carry tire chains **CONSISTENT WITH THE REQUIREMENTS SET FORTH WITHIN** ~~defined in §42-4-106 (5) (a) (I), CRS.~~ Alternative ~~‡Traction D~~ **devices (ATDs) or, INCLUDING** tire cables, may **ALSO** be used ~~in lieu of tire chains AS ARE DEFINED AND AS USE IS CONSISTENT WITH~~ 2 CCR 601-14 ~~as identified in 2 CCR 601-14.~~

MCS 8.VI.— **INTRASTATE MEDICAL WAIVERS. A. a.** ~~Approval of Medical Waivers.~~ MCSS may grant variances/waivers to drivers unable to satisfy the requirements of 49 CFR 391, Subpart E, **CONSISTENT WITH THESE RULES.**

8.1. APPROVAL OF MEDICAL WAIVERS. Individual applications requesting a variance/waiver of specific requirements may be approved when the approval of **A** variance/waiver is supported by the decisions of a certified medical examiner and the documented determination of an appropriate medical professional, combined with **THE** satisfaction of any applicable performance standards, ~~to support~~ supporting a decision that a medical condition has no adverse impact on safety.

8.2. MEDICAL WAIVER APPLICATION ONLINE. ~~b.~~—Medical waiver requirements, submission information, and documents are available online at [HTTPS://WWW.COLORADO.GOV/PACIFIC/CSP/MEDICAL-WAIVERS](https://www.colorado.gov/pacific/csp/medical-waivers). **MEDICAL WAIVER APPLICATIONS MAY ALSO BE REQUESTED IN PERSON, BY FAX, OR BY MAIL FROM THE MCSS OFFICE AT 15075 S. GOLDEN RD., GOLDEN, CO., 80401.**

8.3. WRITTEN NOTICE OF TERMS AND CONDITIONS. **MEDICAL WAIVER CARDHOLDERS ARE PROVIDED WRITTEN NOTICE OF RELEVANT PROGRAM TERMS AND CONDITIONS AT THE TIME OF CARD APPROVAL AND SUBSEQUENT RENEWAL(S).**

8.4.B. ~~DENIAL OF MEDICAL WAIVER APPLICATION~~ **Denial. A.**—An application for a medical waiver may be denied if:

- ~~8.4.1.i.~~—The applicant does not currently possess or is not in the process of attaining a state of Colorado ~~Commercial Driver's License; CDL.~~
- ~~8.4.2.ii.~~—~~If t~~The applicant has a medical condition for which a waiver or variance is not available.; ~~or~~
- ~~8.4.3.iii.~~—~~e~~Either the certified medical examiner or the medical professional fail to complete or certify the required waiver form(s).
- ~~8.4.4.iv.~~—~~u~~Upon review of relevant motor vehicle operation data available to the CSP at the time of receipt of paperwork to re-issue a medical waiver to an individual having an expired or expiring waiver, the CSP determines that to re-issue a medical waiver to an individual **DOES** not promote safety, protect human life, or preserve the highways of this state.
 - ~~8.4.4.1.A.~~—The denial of an application for the re-issue **OR RENEWAL** of a medical waiver to an individual based upon relevant motor vehicle operation data available to the CSP at the time of the receipt of paperwork will be afforded the same appeal rights as a waiver revocation.
- ~~8.4.5.b.~~—Denial of a medical waiver application will be by written notice from GSPMCSS.

8.4.5.1. MEDICAL WAIVER APPLICATIONS DENIED AS A RESULT OF INCOMPLETE, INSUFFICIENT, OR INELIGIBLE INFORMATION MAY BE RESUBMITTED AT THE CONVENIENCE OF AN APPLICANT UPON CORRECTION COMPLETION, OR UPON MEETING REQUIREMENTS OF ELIGIBILITY WITHOUT PREJUDICE.

~~8.5.C.~~—MEDICAL WAIVER REVOCATION. 1.—A MEDICAL WAIVER MAY BE REVOKED WHERE THE CSP DETERMINES THAT ITS' ISSUE DOES NOT PROMOTE SAFETY, PROTECT HUMAN LIFE, OR PRESERVE THE HIGHWAYS OF THIS STATE.

- ~~8.5.1.1.~~—A medical waiver may be revoked by the CSP when a waiver holder fails to comply with applicable terms and conditions of the CSP Medical Waiver Program.
- ~~8.5.2.2.~~—A medical waiver may be revoked by the CSP when it is determined **THAT BASED UPON RELEVANT MOTOR VEHICLE OPERATIONS DATA AVAILABLE TO** ~~by~~ the CSP that continued use of the waiver by a holder fails to promote safety, protect human life, or preserve the highways of this state.

~~i.~~ ~~Medical waiver cardholders are provided written notice of relevant program terms and conditions at the time of card approval and subsequent renewal.~~

- ~~8.5.3.ii.~~—Revocation of any medical waiver will be by written notice **FROM** the GSP-MCSS **CONSISTENT WITH §24-4-104, CRS.**

8.6. RIGHT TO HEARING UPON MEDICAL WAIVER REVOCATION. Within 30 days of receiving written notice from the MCSS of a **PENDING** waiver **REVOCATION**, ~~THE CSP~~ **MCSS WILL PROVIDE** the waiver **HOLDER AN OPPORTUNITY TO ATTEND A HEARING CONSISTENT WITH §24-4-104, CRS.**

~~8.7.D.~~ **RIGHT TO APPEAL MEDICAL WAIVER REVOCATION SUBSEQUENT INITIAL HEARING.** **WITHIN 20 DAYS OF THE COMPLETION OF THIS HEARING OR THE FAILURE OF THE WAIVER HOLDER TO ATTEND, THE CHIEF WILL ISSUE A WRITTEN DECISION EITHER SUSTAINING OR OVERTURNING THE MEDICAL WAIVER REVOCATION.** Within 30 days of receiving written notice from the MCSS revoking a medical waiver, the holder of the waiver may ~~request a hearing~~ **SUBMIT AN APPEAL.**

~~8.7.1.i.~~ **Hearing APPEAL** requests by waiver holders must be made in writing.

~~8.7.2.ii.~~ **Hearing APPEAL** requests must be addressed to the Chief of the ~~CSP~~ or his or her designee at the ~~CSP-MCSS~~ at 15075 S. Golden Rd., Golden CO. ~~o~~, 80401.

8.7.3. THE CHIEF WILL HOLD A HEARING UPON THE APPEAL CONSISTENT WITH §24-4-105, CRS.

~~8.7.3.1.i.~~ The scope of any hearing or appeal will be limited to whether the applicant or ~~permit~~ **WAIVER CARD** holder complied with terms and conditions applicable to the medical waiver program.

~~8.7.4.ii.~~ The Chief will issue a written decision within 20 business days of the completed hearing.

~~8.7.4.1.A.~~ If the Chief of the ~~CSP~~ or his or her designee finds that evidence of non-compliance and/or ineligibility is sufficient, the medical waiver revocation will be sustained.

~~8.7.4.2.B.~~ If the Chief of the ~~CSP~~ or his or her designee finds that evidence of non-compliance and/or ineligibility is not sufficient, the medical waiver revocation will be immediately overturned and the medical waiver reinstated.

~~8.7.5.iii.~~ The decision of the Chief of the ~~CSP~~ or his or her designee shall **UPON APPEAL WILL** constitute a final agency action and is subject to judicial review as described by §24-4-106, CRS.

MCS 9.VII.— INTRASTATE SAFETY FITNESS RATINGS AND CIVIL PENALTIES. ~~A.~~ The Colorado Department of public Safety (CDPS) is authorized by the provisions of §42-4-235 (2) (a), CRS, to collect civil penalties levied against intrastate carriers found in violation of the rules adopted by the CDPS pursuant to §42-4-235 (4) (a), CRS. The ~~following procedure shall apply~~

~~to the determination and issuance of these penalties established by these rules shall apply~~
APPLIES to the determination and issuance of these **THESE** civil penalties.

9.1.B.—INTRASTATE CARRIER SAFETY RATINGS. The CSP ~~must~~ **WILL** establish a Safety Fitness Rating for each motor carrier upon which it conducts a Compliance Review. The CSP **WILL** use as general guidelines the procedures and definitions contained in 49 CFR 385.

9.2.1.—Scope, Authority, and Application. ~~a—~~§42-4-235 (2) (a), CRS, **REGARDING** the ~~M~~minimum ~~S~~standards for commercial vehicles **PROVIDES THAT N**o person ~~shall~~ **WILL** operate a commercial vehicle on a public highway of this state unless such vehicle is in compliance with the rules adopted by the CSP. Any person who violates such rules ~~shall~~ **WILL** be subject to the civil penalties authorized pursuant to 49 CFR 386, Subpart G.

9.3.i.—49 CFR 386, SUBPART G NOT APPLICABLE TO INTRASTATE MOTOR CARRIERS. Intrastate motor carriers ~~shall~~ **WILL** not be subject to any **OF** the provisions in 49 CFR 386, Subpart G that relate the amount of a penalty to a violator's ability to pay. ~~Such Civil penalties shall~~ **WILL** be based upon the nature and gravity of the violation(**S**), the degree of culpability, and such other matters as justice and public safety may require.

9.4.b.—EXCLUSIVE AUTHORITY TO CONDUCT COMPLIANCE REVIEWS. The CSP ~~shall~~ **WILL** have **THE** exclusive authority to conduct Compliance Reviews, as defined in 49 CFR 385.3 and to impose civil penalties pursuant to such rules.

9.5.c.—APPLICATION OF CIVIL PENALTY. The Civil Penalty will be applied at the completion of a Compliance Review by a **MCSS** Investigator certified by the FMCSA as a Compliance Review ~~i~~investigator

9.6.2.— CIVIL PENALTY Definitions. UNLESS OTHERWISE SPECIFIED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS MCS 9.

9.6.1.a.—Civil Penalty Process: The process and proceedings to collect civil penalties by the CSP for violations of §42-4-235 (4) (a), CRS.

9.6.2.b.—Notice of Claim Letter (NOC): The written order informing the motor carrier of their penalty, the rights associated with the penalty, and the process for responding to the penalty.

9.6.3.c.—Commercial Vehicle: **WILL** have the same meaning as described in §42-4-235 (1) (a), CRS.

9.6.4.d.—Compliance Review: An examination of motor carrier operations, such as driver's hours of service, maintenance and inspection, driver qualifications, ~~commercial driver's license~~ CDL requirements, financial responsibility, accidents, hazardous materials, and other safety and

transportation records to determine whether a motor carrier meets the safety fitness standard.

9.6.5.e.—Conditional Safety Rating: Indicates that a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard **S** that could result in occurrences listed in 49 CFR 385.5.

9.6.6.f.—Motor Carrier: ~~Shall~~ **WILL** have the same meaning as described in §42-4-235 (1) (c), CRS.

9.6.7.g.—Served/Service: Indicates NOC or other service document was sent by first class mail to the last address furnished to the ~~CSP-MCSS~~ by the motor carrier or was personally served **UPON THE MOTOR CARRIER** by a uniformed member of the CSP.

9.6.7.1.i.— Service of a NOC or document by first class mail is considered complete when it is mailed, not when it is received.

9.6.8.h.—Satisfactory Safety Rating: Indicates a motor carrier has in place and functioning adequate Safety Fitness controls to meet the safety fitness standard prescribed in 49 CFR 385.5. Safety Fitness controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.

9.6.9.i.—Unrated Safety Rating: Indicates a safety rating has not been assigned to the motor carrier by the CSP.

9.6.10.j.—Unsatisfactory Safety Rating: Indicates a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard, ~~which has resulted~~ **RESULTING** in occurrences listed in 49 CFR 385.5.

9.7. Safety Fitness Rating ASSIGNMENT. a.—Upon completion of a Compliance Review, the CSP ~~shall~~ **WILL** assign a proposed Safety Fitness Rating that ~~shall~~ **WILL** be based on the degree of compliance with the federal motor carrier safety fitness standard for motor carriers found in 49 CFR 385.5.

9.7.1. The Safety Fitness Rating will be determined using the factors prescribed in 49 CFR 385.7. A motor carrier may determine their degree of compliance with the safety fitness standard by reviewing 49 CFR 385.5.

9.7.2.b.—On the 61st day after the assignment of a proposed Safety Fitness Rating the motor carrier's Safety Fitness Rating will become a final Safety Fitness Rating.

9.7.3.c.—The final Safety Fitness Rating of an intrastate motor carrier will be available to the public upon request by contacting the ~~CSP-Central Records Unit (CRU)~~ office at:

Colorado State Patrol
Central Records Unit
700 Kipling St.
Lakewood, CO 80215
303-239-4500

- 9.8. ADMINISTRATIVE REVIEW OF SAFETY FITNESS RATING. d.**— If a motor carrier believes the CSP committed an error in assigning its Safety Fitness Rating, they may request an administrative review. The request must ~~confirm~~ **CONFORM** to the following provisions:
- 9.8.1. i.**—~~The request must be in writing addressed to the Chief of the CSP or his or her designee~~ within 30 days of the assignment of the proposed Safety Fitness Rating.
- 9.8.2. ii.**—The request must explain the error the motor carrier believes the CSP committed in issuing the Safety Fitness Rating. The motor carrier must include a list of all factual and procedural issues in dispute, and any information or documentation that supports its argument.
- 9.8.3. iii.**—~~The Chief of the CSP or his or her designee~~ may request more information and/or require the motor carrier to attend a conference to discuss the rating. If the motor carrier does not provide the information requested or attend the conference, ~~the Chief/designee~~ may dismiss the request.
- 9.8.4. iv.**—~~The Chief of the CSP or his or her designee~~ will serve the decision **IN WRITING** within 30 days of receiving the request.
- 9.8.5. v.**—The proposed Safety Fitness Rating will remain as a proposed Safety Fitness Rating until the decision of the Chief ~~of the CSP or his or her designee~~.
- 9.8.6. vi.** The decision will include the assignment of a final Safety Fitness Rating. The decision constitutes final action by the CSP.
- 9.9. MOTOR CARRIER REQUEST TO CHANGE SAFETY FITNESS RATING FOR CORRECTIVE ACTION(S). e.**— In the event a Safety Fitness Rating is assigned to an intrastate motor carrier, the motor carrier may request a change to their Safety Fitness Rating based on corrective actions taken by the motor carrier. ~~This~~ **A** request cannot be made **BY A MOTOR CARRIER** and will not be acted upon **BY THE CSP** sooner than 90 days after the assignment of a proposed Safety Fitness Rating. The request must be **SUBMITTED** in writing and addressed to the Chief ~~of the CSP or his or her designee~~. The request must conform to the following provisions:
- 9.9.1. i.**—The motor carrier must submit a description of corrective action(S) taken, hereinafter referred to as the Cooperative Safety Plan.

- 9.9.2.ii.** ~~The Cooperative Safety Plan shall~~ **MUST** address each violation on the most recent Compliance Review that was an acute and/or critical violation. It ~~shall~~ **MUST** also address factor six (crashes) of the Compliance Review when the rating for factor six is “unsatisfactory.”
- 9.9.3.iii.** ~~The Cooperative Safety Plan must identify why the violation(s) cited as acute and/OR critical were permitted to occur.~~
- 9.9.4.iv.** ~~The Cooperative Safety Plan must discuss the actions to be taken to correct the deficiency or deficiencies that allowed the acute and/or critical violations to occur.~~
- 9.9.5.v.** ~~Actions taken to insure~~ **ENSURE** these critical and/or acute violations do not reoccur in the future.
- 9.9.6.vi.** ~~If factor six (crashes) is rated unsatisfactory,~~ an accident countermeasure program must be included as part of the Cooperative Safety Plan. The program must include, but not **BE** limited to, defensive driving training.
- 9.9.7.vii.** ~~If the Cooperative Safety Plan includes actions taken in the near future, such as training, reorganization of departments, purchasing of computer programs, etc.,~~ **A** ~~a-~~ schedule of when the activity is to occur must be included.
- 9.9.8.viii.** ~~Any additional documentation or information that relates to motor carrier safety and the prevention of crashes and hazardous materials incidents must be included.~~
- 9.9.9.ix.** ~~The Cooperative Safety Plan must include a written statement certifying that the motor carrier will operate in compliance with the motor carrier safety and hazardous materials regulations adopted by the CSP pursuant to §§42-4-235 and 42-20-108, CRS, and all applicable state and local laws.~~
- 9.9.10.x.** ~~The Cooperative Safety Plan must be signed by a corporate officer in the case of a corporation, a member or manager in the case of a~~ **AN LLC** ~~limited liability company,~~ by the general partner of a limited partnership, or by all the partners or proprietors in the case of a general partnership or proprietorship.

9.10.f. MOTOR CARRIER REQUEST TO CHANGE SAFETY RATING THROUGH COMPLIANCE REVIEW. ~~The~~ **A** motor carrier may request a change in their Safety Fitness Rating by requesting a follow up Compliance Review, as follows:

- 9.10.1.i.** ~~The request must be made to the Chief of the CSP or his or her designee.~~ The request cannot be made **BY THE MOTOR CARRIER** and will not be acted upon **BY THE CSP** sooner than three months after the assignment of a proposed Safety Fitness Rating.

- 9.10.2.ii.** ~~The Compliance Review investigator will review the corrective action(s) taken by the motor carrier since the last Compliance Review.~~
- 9.11. 4. a. CIVIL PENALTY ASSESSMENT.** ~~The A Compliance Review may result in the assessment of a Civil Penalty as prescribed by §42-4-235 (2), CRS, for violations discovered during the Compliance Review, AS PRESCRIBED BY §42-4-235 (2), CRS.~~
- 9.12.b. CIVIL PENALTY AMOUNT DETERMINATION.** ~~The amount of the A Civil Penalty ASSESSMENT will be determined by CONSIDERING taking into account the following factors:~~
- 9.12.1.i.** ~~THE N~~ nature and gravity of the violation(s);
- 9.12.2.ii.** ~~THE D~~ degree of culpability.
- 9.12.3.iii.** ~~The H~~ history of offenses within three years preceding he date of the Compliance Review.
- 9.12.4.iv.** ~~Such other matters as justice and public safety MAY REQUIRE, not to include any consideration of a violator's ability to pay the Civil Penalty.~~
- 9.13.c. IMPLEMENTS OF HUSBANDRY EXEMPTED.** ~~The intrastate operation of implements of husbandry shall WILL not be subject to the civil penalties provided in 49 CFR 386, Subpart G.~~
- 9.14.d. APPLICATION OF UFA.** ~~The Compliance Review investigator will use the Uniform Fine Assessment (UFA) as IT IS CODIFIED codified WITHIN §42-4-235 (2) (a), CRS, to determine the Civil Penalty TO BE levied upon the A motor carrier.~~
- 9.15.5. a. Civil Penalty Process. a. NOTIFICATION OF PENALTY.** ~~Upon determination of the A Civil Penalty, the Compliance Review investigator will service WRITTEN notification of the CIVIL PENALTY ASSESSMENT UPON A MOTOR CARRIER in the form of a NOC.~~
- 9.16.b. Payment or Administrative Review OF PENALTY.** ~~The motor carrier WILL RESPOND TO the CSP/MCSS within 30 days of service of the NOC UPON THE CARRIER BY THE CSP in one of the following ways:~~
- 9.16.1.i.** ~~Pay the full amount of the Civil Penalty as instructed in the NOC; or~~
- 9.16.2.ii.** ~~Submit a written request for a payment plan to the Commander of the CSP/MCSS; or~~
- 9.16.3.iii.** ~~If a motor carrier believes the CSP committed an error in determining its Civil Penalty, they may request an administrative review of that penalty. The following provisions will govern the administrative review:~~

~~9.16.3.1.A.~~ The request must be in writing, addressed to the Chief of the CSP or his or her designee within 30 days of the service of the NOC.

~~9.16.3.2.B.~~ The request must explain the error the motor carrier believes the CSP committed in issuing the Civil Penalty. The motor carrier must include a list of issues in dispute, and any supporting information or documentation.

~~9.16.3.3.C.~~ The Chief of the CSP or his or her designee may request additional information and/or require the motor carrier to attend a conference to discuss the penalty. If the motor carrier does not provide the information requested or attend the conference, then the Chief of the CSP or his or her designee may dismiss this request.

~~9.16.3.4.D.~~ The Chief of the CSP or his or her designee shall **WILL** serve the motor carrier with a written decision within 30 days after the Chief of the CSP or his or her designee has determined that the administrative record is complete. This decision **WILL** constitute **A** final agency action.

~~9.16.3.5.E.~~ **A** motor carrier has 30 days from the date of the service the decision to pay the penalty, to arrange for a payment plan as described **WITHIN THESE RULES** in ~~5 (b) (ii)~~, or, 35 days from the date ~~for the~~ **OF A** final agency action, to file an action in the appropriate district court as ~~provided by~~ **IS CONSISTENT WITH** §24-4-106 (4), CRS.

~~9.17.i.~~ **CARRIER FAILURE TO RESPOND TO CIVIL PENALTY AND REGISTRATION REVOCATION.** If, after the 30 days **OF SERVICE OF A NOC** ~~A~~ the carrier does not pay the penalty, request a payment plan, or file an action in the appropriate district court, the carrier will be deemed to have failed to pay.

~~9.17.1.~~ The CSP-MCSS will forward notice to the ~~Colorado Department of Revenue~~ CDOR ~~for~~ **OF** any carrier deemed to have failed to pay, consistent with §42-4-235 (2) (d) (I), CRS.

~~9.17.2.~~ If the MCSS **FORWARDS NOTICE TO CDOR OF** a carrier **WHICH** has failed to pay the assessed or adjudicated penalty, the registrations of the carrier's vehicle(s) **REGISTERED TO THE CARRIER** shall **WILL** be **CANCELED** cancelled pursuant to §42-3-120, CRS.

~~MCS 10.VIII.~~ **MISCELLANEOUS INFORMATION ON THESE RULES.** ~~A.~~ All contact with the CSP regarding these rules or their applicability should be addressed to:

Colorado State Patrol
Motor Carrier Safety Section
15075 S. Golden Rd.
Golden, CO., 80401-3990
303-273-1875
303-273-1939 (Fax)
MCSAP@STATE.CO.US

MCS 11. INFORMATION, MAINTENANCE AND REFERENCE OF PUBLICATIONS, STANDARDS, GUIDELINES AND RULES. ~~B.~~ All publications, standards, guidelines, and rules adopted and incorporated by reference in these rules are on file and available upon request for **INSPECTION BY THE** public inspection by contacting the ~~CSP-MCSS~~ at 15075 S. Golden ~~RD.~~, Golden CO., 80401-3990. These rules are available **BY REQUEST FROM THE MCSS AND** online through the CDPS website at <HTTPS://WWW.COLORADO.GOV/PACIFIC/PUBLICSAFETY/RULES-AND-REGULATIONS-6>.

11.1.4. AVAILABLE FOR PUBLIC INSPECTION AND REFERENCED CONSISTENT WITH STATUTE. All publications, standards, guidelines, and rules adopted and incorporated by reference in these rules will be provided to and made available for examination at any state publications depository library as required by §24-4-103 (12.5), CRS. The following publications, standards, guidelines, and rules are adopted as amended within these three rules **AND** ~~in accordance-~~**CONSISTENT** with §24-4-103 (12.5), CRS:

11.1.1.a. ~~Commercial Vehicle Safety Alliance (2020)-(2021).~~ North American Standard Out-of-Service Criteria (OOSC). April 1, ~~2020~~**2021**. Greenbelt, MD: Author.

11.1.2. Federal Motor Carrier Safety Regulations, 49 CFR 40, 380, 382, **383**, 385, 387, 391-397, 399, and Appendix G ~~(2019)-(OCTOBER, 2020)~~. This information is also available online through the Government Publishing Office website at <HTTPS://WWW.EFCR.GOV/-CGI-BIN/ECFR?PAGE=BROWSE>.

11.2.2. MAINTENANCE OF COPIES. The ~~CSP-MCSS shall~~ **WILL** maintain copies of the complete texts of each of the publications, standards, guidelines **REFERENCED HEREIN AND THESE** rules. **THE MCSS** will make **EACH** available for public inspection during regular business hours.

11.3. AVAILABILITY OF COPIES. Interested parties may access **INFORMATION ABOUT OR** these documents free of charge online. Interested parties may also inspect the referenced materials and/or obtain copies of the adopted standards for a reasonable fee by contracting the ~~CSP-MCSS at 15075 S. Golden Rd., Golden, CO., 80401.~~ Copies of the adopted publications, standards, guidelines,

and rules may also be available from the organizations **OR AGENCIES of ORIGIN:**

11.3.1.a. ~~2020-2021 CVSA Out-Of-Service Inspection Criteria.~~ Commercial Vehicle Safety Alliance (CVSA), 6303 Ivy Lane, Suite 310, Greenbelt, Maryland, 20770-6319. Phone: 301-830-6143. Email: CVSAHQ@CVSA.ORG.

11.3.2.b. ~~Federal Motor Carrier Safety Administration (FMCSA), 1200 New Jersey Ave., SE, Room W-65-206, Washington, DC, 20590. Phone: 1-800-832-5660. Website: WWW.FMCSA.DOT.GOV.~~

11.4.C. ~~LATER EDITIONS NOT INCLUDED.~~ These rules do not include later amendments to or editions of any publications, standards, guidelines, or rules incorporated by reference herein.

MCS 12. SEVERABILITY. IF ANY PROVISION OF THESE RULES OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS DETERMINED TO BE UNLAWFUL OR INVALID, THE REMAINING PROVISIONS OF THESE RULES WILL NOT BE AFFECTED, ABSENT A SPECIFIC REFERENCE.