

DEPARTMENT OF PUBLIC SAFETY

Colorado State Patrol

MINIMUM STANDARDS FOR THE OPERATION OF COMMERCIAL VEHICLES

8 CCR 1507-1

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

AUTHORITY TO ADOPT STANDARDS AND SPECIFICATIONS

The Department of Public Safety is authorized by the provisions of §42-4-235(4), C.R.S., 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.

I. APPLICABILITY

- A. These rules and regulations shall apply to all individuals, corporations, government or governmental subdivisions or agencies, or other legal entities who operate commercial vehicles as defined in §42-4-235, C.R.S.
 - 1. In addition to this rule, anyone who transports hazardous materials as defined in 49 CFR 171.8 §42-20-103(3), C.R.S. and/or nuclear materials as defined in §42-20-402(3)(a)(b)(c), C.R.S., shall comply with the Colorado State Patrol 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. The Department of Public Safety may consider and grant requests for temporary variance from the rules in 8 CCR 1507-1 provided the variance is not in violation of §42-4-235, C.R.S.
 - 3. The Department of Public Safety, Colorado State Patrol, Motor Carrier Safety Section may grant variances/waivers to drivers unable to satisfy the requirements of 49 CFR 391, Subpart E. Individual applications requesting a variance/waiver of specific requirements may be approved, when the approval of the variance/waiver is based upon sound medical judgment combined with appropriate performance standards ensuring no adverse affect on safety.

II. AUTHORITY TO INSPECT VEHICLES, DRIVERS, CARGO, BOOKS AND RECORDS

- A. Enforcement officials, as defined in §42-20-103(2), C.R.S., who are required to perform motor vehicle safety inspections on commercial motor vehicles and drivers, shall be required to meet the inspector qualifications set forth in §42-4-235(4), C.R.S., while performing a Level I North American Standard Safety Inspection. All enforcement officials performing Level II-VI North American Standard Safety Inspections must maintain certification requirements prescribed in the Commercial Vehicle Safety Alliance Operations Manual.
- B. Enforcement officials shall at all times have the authority to inspect commercial vehicles as defined in §42-4-235, C.R.S., commercial vehicle drivers, cargo, and any required documents, set forth in 49 CFR, Subchapter B, Parts 368, 390, 391, 392, 393, 395, 396 and 399 CFR, as revised October 1, 2007. *Eff. 4/30/2008* .
- C. Enforcement officials of the Colorado State Patrol who are certified by the Federal Motor Carrier

Safety Administration (49 CFR 385, Subpart C) to perform compliance reviews and safety audits shall have the authority to enter the facilities of and inspect any motor carrier, as defined in §42-4-235, C.R.S., and any required records and supporting documents, set forth in 49 CFR, Subchapter B, Parts 40, 368, 380, 382, 385, 390, 391, 392, 393, 395, 396 and 399, and Appendix G, CFR, as revised October 1, 2007. *Eff. 4/30/2008*.

III. INSPECTIONS STANDARDS AND REPORTS

- A. Through a Memorandum of Understanding with the Commercial Vehicle Safety Alliance (CVSA), the Colorado State Patrol, a Division of the Department of Public Safety, on April 18, 2006, adopted the standards and procedures established for the inspection of commercial vehicles, otherwise known as the North American Uniform Driver/Vehicle Inspection.
- B. Enforcement officials performing safety inspections on commercial vehicles, drivers, and cargo shall use as general guidelines the levels, methods of inspections and Out-of-Service criteria, found in the CVSA bylaws, as revised April 1, 2008. With the exception of Out-of-Service Criteria Part I, Number 6 Driver Qualifications. Which shall be amended to read:

"6. Driver Qualifications

Cannot read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records. ***Place driver out-of-service until re-qualification is established.***"

- C. Enforcement officials shall, on completion of each inspection, prepare a report which at minimum fully identifies the inspector, the inspector's agency, the carrier's name and address, the date and time of the inspection, the location of the inspection, the vehicle, the driver, the defects found, if any, and the disposition of the vehicle. A copy of the inspection report shall be given to the driver or motor carrier.

IV. REGULATIONS

- A. All commercial vehicles and motor carriers as defined in §42-4-235(1)(a), C.R.S., and all drivers as defined in 49 CFR 390.5, shall operate in conformity with the safety regulations contained in:

49 CFR 40	Procedures for Transportation Workplace Drug Testing Programs
49 CFR 368	Certificates of registration by foreign motor carriers
49 CFR 380	Special Training Requirements
49 CFR 382	Controlled Substances and Alcohol Use & Testing
49 CFR 385 Subpart D	New Entrant Safety Assurance Program
49 CFR 390	General
49 CFR 391	Qualifications of Drivers
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	Inspection, Repair, and Maintenance
49 CFR 399	Employee Safety and Health Standards
49 CFR Appendix G:	Minimum Periodic Inspection Standards

of the United States Department of Transportation's Motor Carrier Safety Regulations as the same were in effect on October 1, 2007 and published in Title 49 of the Code of Federal Regulations, subtitle B chapter III, Parts 200 through 399, with references therein, with the following modifications:

1. 49 CFR 368.3 through 368.6 and 368.8 shall not apply.
2. 49 CFR 380.509(a) shall be amended to read, "Each employer must ensure each entry level driver, who first began operating a commercial motor vehicle requiring a commercial driver's license under §42-2-404, C.R.S., in intrastate commerce after July 1, 2004 receives the training required by 49 CFR 380.503."
3. 49 CFR 385.301 through 385.307 and 385.319(c) through 385.333 shall not apply. 49 CFR 385.309 through 385.317, hereafter referred to as the Intrastate New Entrant Safety Assurance Program, shall apply to intrastate motor carriers who are beginning in intrastate operations after July 1, 2004, and are required to obtain a Colorado assigned DOT identification number. A prior interstate safety audit or compliance review shall meet the requirement for an intrastate safety audit.
 - a. All intrastate motor carriers beginning in operations after July 1, 2004 must submit to a Safety Audit as defined in 49 CFR 385.3.
 - b. Safety Audits will be conducted by the Colorado State Patrol Motor Carrier Safety Section. The reference in 49 CFR 385.319(b) to FMCSA shall be amended to read the Colorado State Patrol Motor Carrier Safety Section.
4. 49 CFR 390.3(f) shall not apply.
5. 49 CFR 390.5 Definitions:
 - a. The definition of "Commercial Motor Vehicle" and "Motor Carrier" shall not apply.
 - b. The definition of an "Emergency" is amended by adding 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. 49 CFR 390.19(a) is amended to read: "Each motor carrier that conducts operations in intrastate commerce must apply for and receive a Colorado assigned DOT identification number prior to beginning operations within the state. The motor carrier is also required to update the information contained in the application every 24 months."

- a. Identification numbers for intrastate motor carriers are issued by the Colorado State Patrol, Motor Carrier Safety Section.
 - b. Only the legal name or single trade name may be used on the application for the Colorado assigned DOT identification number.
7. 49 CFR 390.21(b) is amended by adding the following: "Intrastate carriers must mark their vehicles with the Colorado assigned DOT identification number, preceded by the letters "USDOT" and followed by the suffix "CO" (e.g.: USDOT 1234567 CO). Intrastate motor carriers required to obtain an identification number may request an application from the Colorado State Patrol, Motor Carrier Safety Section. Combination vehicles may meet the requirements of 49 CFR 390.21 by marking the trailer if the power unit GVWR is 10,000 lbs or less."
8. 49 CFR 391.11(b)(1) shall be 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. All other drivers must be at least 18 years of age."
9. 49 CFR 393.48 and 393.49 shall not apply to trailers equipped with hydraulic surge brakes provided that the GCWR does not exceed 26,000 pounds and they comply with the rules adopted pursuant to §42-4-223(2.5), C.R.S. (8CCR 1507-18), concerning the use of surge brakes in Colorado.
10. Public transit agency carriers and their drivers operating in intrastate commerce may meet the requirement in 49 CFR 395.1(e)(1)(ii) by either meeting the existing regulation or by replacing 49 CFR 395.1(e)(1)(ii) with, "the driver is released from work within 12 consecutive hours."
11. 49 CFR 395.3 or 395.5 shall not apply to governmental and public utility drivers working an emergency, as defined in 8 CCR 1507-1, provided drivers continue to comply with 49 CFR 395.1(e)(1)(v), or 395.1(e)(2)(ix) or 395.8 recording their hours of service. The motor carrier must document this local emergency.
12. 49 CFR 395.3 shall not apply to tow drivers who are working an emergency, as defined in 8 CCR 1507-1, or are towing a vehicle from public roadway at the request of a police officer or other law enforcement purpose provided the driver continues to comply with 49 CFR 395.1(e)(1)(v), or 395.1(e)(2)(ix) or 395.8 recording their hours of service.
 - a. The tow carrier/driver must document the emergency or law enforcement call and time associated.
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).
14. 49 CFR 395.1(k)(2) 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."
15. 49 CFR 396.9 any reference to an out-of-service sticker shall mean any out-of-service declaration.
16. 49 CFR 396.11 and 396.13(b)(c) shall not apply to an intrastate farmer (as defined in 49 CFR 390.5 operating commercial motor vehicles as defined in §42-4-235(1)(a), C.R.S. during

planting and harvest seasons, as defined by the Colorado Department of Agriculture.

17. All references to federal agencies and authorized personnel shall be construed to mean the Colorado State Patrol, Port of Entry, Public Utilities Commission, and law enforcement agencies with a signed memorandum of understanding with the Colorado State Patrol and their authorized personnel.
 18. All reporting requirements referred to in 49 CFR 40, 368, 380, 382, 385, 390, 391, 392, 393, 395, 396 and 399, shall be filed with the Colorado State Patrol, Motor Carrier Safety Section, 15075 S. Golden Road Golden, Colorado 80401.
 19. All references only to interstate commerce shall also include intrastate commerce.
- B. The Department of Public Safety Rules and Regulations apply to all vehicles which meet the definition of a commercial vehicle set forth in §42-4-235, C.R.S. and drivers which meet the definition of "Driver" as described in 49 CFR 390.5, with the following exceptions:
1. Drivers of intrastate vehicles and combination of vehicles with a gross vehicle weight rating or gross combined weight rating of not more than 26,000 pounds, and which do not require a commercial driver's license to operate, are not subject to 49 CFR 391, Subpart E, Physical Qualifications and Examinations;
 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 the vehicle to be marked or placarded under 49 CFR 172.504;
 3. The operation of authorized emergency vehicles, as defined in §42-1-102(6), C.R.S., while in emergency and related operations;
 4. The operations of snowplows when removing snow/ice from the roadway or related snow/ice removal operations;
 5. Repossessors, as defined in §42-6-146(4), C.R.S., and transporting vehicles pursuant to §42-6-146(1) and (3), C.R.S., are not subject to 49 CFR 395, Hours of Service or 390.21, Marking of Commercial Motor Vehicles;
 6. Farmers (as defined in 49 CFR 390.5) operating a commercial vehicle as defined in §42-4-235(1)(a), C.R.S., not exceeding 26,000 pounds (GVWR or GCWR), are not subject to 49 CFR 395, Hours of Service or 49 CFR 390.21, Marking of Commercial Motor Vehicles.
 7. The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise.

C. Traction Devices Required:

Drivers operating a commercial vehicle as defined in Colorado Department of Transportation's rule 2 CCR 601-14, being operated on Interstate 70 between milepost 163 to milepost 259 from September 1st to May 31st inclusive, must carry on the vehicle, tire chains as defined in §42-4-106(5)(A)(I). Other alternative traction devices, as defined in 2 CCR 601-14, may be used in lieu of tire chains.

V. SAFETY FITNESS RATINGS AND INTRASTATE CIVIL PENALTIES

- A. The Department of Public Safety is authorized by the provisions of §42-4-235(2)(a), C.R.S., to collect

civil penalties levied against intrastate carriers found in violation of the rules pursuant to §42-4-235(4)(a), C.R.S., as adopted by the Colorado Department of Public Safety. The following procedure shall apply for the issuance of those penalties.

- B. The Colorado State Patrol must establish a Safety Fitness Rating for each motor carrier upon which it conducts a compliance review. The Colorado State Patrol shall use as general guidelines the procedures and definitions contained in 49 CFR 385.

1. Scope, Authority and Intent

- a. §42-4-235(2)(a), C.R.S., Minimum Standards for Commercial Vehicles. No person shall operate a commercial vehicle on a public highway of this state unless such vehicle is in compliance with the rules adopted by the Colorado Department of Public Safety and the Colorado State Patrol. Any person who violates such rules, including intrastate motor carriers, shall be subject to the civil penalties authorized pursuant to 49 CFR 386, Subpart G. The Colorado State Patrol shall have exclusive enforcement authority to conduct safety compliance reviews, as defined in 49 CFR 385.3 and to impose civil penalties pursuant to such rules.
- b. The intent of the regulation is to gain compliance from intrastate motor carriers with the federal motor carrier safety regulations as adopted by the Colorado Department of Public Safety and the Colorado State Patrol. The Civil Penalty will be applied at the completion of a compliance review by a Motor Carrier Safety Investigator certified by the FMCSA as a compliance review investigator.

2. Definitions

- a. *Civil Penalty Process* means the process and proceedings to collect civil penalties by the Colorado State Patrol for violations of §42-4-235, C.R.S.
- b. *Claim Letter* means the written order informing the motor carrier of their penalty, the rights associated with the penalty and the process for responding to the penalty.
- c. *Commercial Vehicle* shall have the same meaning as described in §42-4-235(1)(a), C.R.S.
- d. *Compliance Review* means an on-site examination of motor carrier operations, such as driver's hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard.
- e. *Conditional Safety Rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in 49 CFR 385.5.
- f. *Motor Carrier* shall have the same meaning as described in §42-4-235(1)(c), C.R.S.
- g. *Served/Service* means the notice or service document was sent by first class mail to the last address furnished to the Colorado State Patrol Motor Carrier Safety Section by the motor carrier or the notice or service document was personally served by a uniformed member of the Colorado State Patrol. Service of a notice or document by first class mail is considered complete when it is mailed, not when it is received.

- h. *Satisfactory Safety Rating* means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in 49 CFR 385.5. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.
- i. *Unsatisfactory Safety Rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in 49 CFR 385.5.

3. Safety Fitness Rating

- a. Upon completion of a compliance review the Colorado State Patrol shall assign a proposed safety fitness rating that shall be based on the degree of compliance with the federal motor carrier safety fitness standard for motor carriers found in 49 CFR 385.5. The safety 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 the standard in 49 CFR 385.5, and at www.fmcsa.dot.gov and clicking on "Educational and Technical Assistance Package".
- 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.
- c. The final safety fitness rating of a particular motor carrier will be available to the public upon request by contacting the Colorado State Patrol, Motor Carrier Safety Section Office in writing or fax at:

Colorado State Patrol,

Motor Carrier Safety

15075 South Golden Road

Golden, CO 80401

303-273-1875

303-273-1939 Fax

- d. If a motor carrier believes the Colorado State Patrol, Motor Carrier Safety Section committed an error in assigning its safety rating they may request an administrative review of that rating. The request must conform to the following provisions.
 - i. The request must be in writing addressed to the Chief of the Colorado State Patrol or his/her designee within 30 days of the assignment of the proposed safety fitness rating.
 - ii. The request must explain the error the motor carrier believes the Colorado State Patrol, Motor Carrier Safety Section committed in issuing the safety 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.
 - iii. The chief/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 then the chief/designee may dismiss the request.

- iv. The chief/designee will serve the decision within 30 days of receiving the request.
 - v. The proposed safety fitness rating will remain as a proposed safety fitness rating until the decision of the chief/designee.
 - vi. The decision will include the assignment of a final safety fitness rating. The decision constitutes final action by the Colorado State Patrol, Motor Carrier Safety Section.
- e. The motor carrier may request a change to their safety fitness rating based on corrective actions taken by the motor carrier. This request cannot be made, and will not be acted upon, sooner than three months after the assignment of a proposed safety fitness rating. The request must be in writing and addressed to the Chief of the Colorado State Patrol or his/her designee. The request must conform to the following provisions:
- i. The motor carrier must submit a description of corrective action taken, hereinafter referred to as the Safety Management Plan (SMP).
 - ii. The SMP shall address each violation on the most recent compliance review that was an acute and/or critical violation. It shall also address factor six (crashes) of the compliance review when the rating for factor six is "unsatisfactory."
 - iii. The SMP must identify why the violation(s) cited as acute and critical were permitted to occur.
 - iv. The SMP must discuss the actions to be taken to correct the deficiency or deficiencies that allowed the acute and or critical violations to occur.
 - v. Actions taken to insure these critical and/or acute violations do not reoccur in the future.
 - vi. If factor six (crashes) is rated as unsatisfactory an accident countermeasure program must be included as part of the SMP. The program must include, but not limited to, defensive driving training.
 - vii. If the SMP includes actions taken in the near future, such as training, reorganization of departments, purchasing of computer programs etc., a schedule of when that activity is to occur must be included.
 - viii. Any additional documentation or information that relates to motor carrier safety and the prevention of crashes and hazardous materials incidents must be included.
 - ix. The SMP must include a written statement certifying that the motor carrier will operate in compliance with the Federal Motor Carrier Safety Regulations as adopted by the Colorado Department of Public Safety pursuant to §42-4-235, C.R.S., the Hazardous Materials Regulations as adopted by the Colorado State Patrol pursuant to §42-20-108, C.R.S., and all

applicable state and local laws.

- x. The SMP must be signed by a corporate officer in the case of a corporation, a member or manager in the case of a limited liability company, by the general partner of a limited partnership or by all partners or proprietors in the case of a general partnership or proprietorship.
- f. The motor carrier may request a change in their safety fitness rating by requesting a follow up compliance review, as follows:
 - i. The request must be made to the Chief of the Colorado State Patrol or his/her designee. The request cannot be made and will not be acted upon, sooner than three months after the assignment of a proposed safety fitness rating. *Eff. 4/30/2008* .
 - ii. The compliance review investigator will review the corrective actions taken by the motor carrier since the last compliance review.

4. Civil Penalty

- a. The compliance review may result in the assessment of a civil penalty as prescribed by §42-4-235(2)(a) and (b), C.R.S., for violations discovered during the compliance review.
- b. The amount of the civil penalty will be determined by taking into account the following factors:
 - i. Nature and gravity of the violation
 - ii. Degree of culpability
 - iii. History of offenses within three years preceding the date of the compliance review
 - iv. Such other matters as justice and public safety may require
- c. The intrastate operation of implements of husbandry shall not be subject to the civil penalties provided in 49 CFR 386, Subpart G.
- d. The compliance review investigator will use the Uniform Fine Assessment (UFA) as incorporated by the Colorado State Patrol Motor Carrier Safety Section, to determine the civil penalty levied upon the motor carrier.

5. Civil Penalty Process

- a. **Notification** Upon determination of the civil penalty, the compliance review investigator will serve notification in the form of a claim letter.
- b. **Payment or Administrative Review.** The motor carrier shall serve the Colorado State Patrol, Motor Carrier Safety Section with their response to the claim letter within 30 days of service of the claim letter in one of the following ways:
 - i. Pay the full amount of the civil penalty as instructed in the claim letter; or
 - ii. Submit a written request for a payment plan to the Commander of the

Colorado State Patrol, Motor Carrier Safety Section; or

- iii. If a motor carrier believes the Colorado State Patrol Motor Carrier Safety Section, 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:
 - A. The request must be in writing addressed to the Chief of the Colorado State Patrol or his/her designee within 30 days of the service of the claim letter.
 - B. The request must explain the error the motor carrier believes the Colorado State Patrol, Motor Carrier Safety Section, committed in issuing the civil penalty. The motor carrier must include a list of issues in dispute, and any supporting information or documentation.
 - C. The Chief/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/Designee may dismiss the request.
 - D. The Chief/Designee shall serve the motor carrier with a written decision within 30 days after the Chief/Designee has determined that the administrative record is complete. This decision shall constitute final agency action.
 - E. The motor carrier has 60 days from the date of the service of the decision to pay the penalty, to arrange for a payment plan as described in 5 (B) (II) or file an action in the appropriate district court.
- iv. If, after the 60 days 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.

VI. MISCELLANEOUS

- A. All contact with the Colorado State Patrol, Motor Carrier Safety Section should be addressed to:

Colorado State Patrol,
Motor Carrier Safety Section
15075 South Golden Road
Golden, CO 80401
303-273-1875
303-273-1939 Fax

- B. The safety regulations hereby adopted are contained in the publication entitled Code of Federal Regulations 49 CFR 200 to 399 revised as of October 1, 2007. All publications and rules adopted

and incorporated by reference in these regulations are on file and available for public inspection by contacting the officer in charge of the Motor Carrier Safety Section, Colorado Department of Public Safety, Division of State Patrol, 15075 South Golden Road, Golden, Colorado. Materials incorporated by reference may be examined by any state publication depository library. This rule does not include later amendments to or additions of any materials incorporated by reference.

Editor's Notes**History**

Entire rule eff. 04/30/2007. Entire rule eff. 08/30/2007. Sections I, II, III, IV, V, VI eff. 4/30/2008.

4. 49 CFR 390.3(f) shall not apply.