

DEPARTMENT OF REVENUE

Division of Motor Vehicles

DRIVER'S LICENSE – DRIVER CONTROL

1 CCR 204-30

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

RULE 1 RULES FOR APPLICATION FOR COLORADO ROAD AND COMMUNITY SAFETY ACT IDENTIFICATION DOCUMENTS 42-2-501 CRS

Purpose

The purpose of this rule is to set forth regulations for application and issuance of driver's licenses, minor driver's licenses, instruction permits and identification cards for individuals who cannot demonstrate lawful presence in the United States and for individuals who can demonstrate temporary lawful presence in the United States. These regulations establish the source documents that are acceptable to establish identity, date of birth, Colorado residency, and, as applicable, temporary lawful presence.

Statutory Authority

The statutory bases for this regulation are C.R.S. Title 24-4-103, 24-72.1-103, 42-1-204, and Title 42, Article 2, Parts 1, 2, 3, and 5.

Incorporation By Reference Of Federal Law

The Department incorporates by reference as part of Rule 1 of the Department of Revenue Regulations, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208, section 384, 110 Stat. 3009 (Sept. 30, 1996), referred to in this Rule 1. Such Act is published by the Department of Homeland Security in full in the United States Statutes at Large, Volume 110, page 3009. Rule 1 does not include any later amendments or editions of such Act.

A copy of such Act is available for a reasonable charge from the Colorado Department of Revenue, 1881 Pierce Street, Suite 136, Lakewood, Colorado 80214. A copy of such Act is maintained by the Colorado Department of Revenue and may be inspected by contacting the Records Custodian at the Colorado Department of Revenue, 1881 Pierce Street, Suite 136, Lakewood, Colorado 80214 during normal business hours. The incorporated material may also be examined at any state publications depository library. A copy, including a certified copy, of such Act is also available from the United States Citizenship and Immigration Services ("USCIS") Historical Reference Library at 111 Massachusetts Avenue NW, First Floor (MS2180), Washington, DC 20529-2180.

(100) Definitions

- a) Applicant – Any natural person applying to the Department for a Colorado Identification Document who can demonstrate temporary lawful presence in the U.S., or who cannot demonstrate lawful presence in the U.S.
- b) CO-RCSA – The Colorado Road and Community Safety Act, section 42-2-501 C.R.S.
- c) Department – The Colorado Department of Revenue.

- d) Document – An original document certified by the issuing agency, an amended original document certified by the issuing agency, or a true copy certified by the issuing agency, excluding miniature, wallet sized, or photocopies of documents.
- e) Exceptions Processing – The procedure the Department has established for persons who are unable, for reasons beyond their control, to present all necessary documents and must rely on alternative documents to establish identity or date of birth.
- f) Full Legal Name – The applicant's first name, middle name(s), and last name or surname, without use of initials or nicknames.
- g) Hearing – Hearing before a Department Administrative Hearing Officer.
- h) Identification Card – Has the same meaning as defined in C.R.S. 42-2-303(1)(a).
- i) Identification Document – Has the same meaning as defined in C.R.S. 42-2-503(1).
- j) Identity – The verifiable characteristics that when taken together make a person unique and identifiable. Evidence of identity includes proof of name, date of birth, and physical characteristics, including a verifiable photograph.
- k) Incomplete Application – An application for a CO-RCSA Identification Document that does not satisfy state requirements for the issuance of a CO-RCSA Identification Document.
- l) Individual Taxpayer Identification Number (ITIN) – A tax processing number issued by the Internal Revenue Service (IRS) as shown on an ITIN card issued by the IRS, on a letter from the IRS, or on a certified state tax return.
- m) Temporary Lawful Presence – The status of a person whose authority to lawfully remain in the United States is temporary and who qualifies for an Identification Document.
- n) SAVE – The Department of Homeland Security Systematic Alien Verification for Entitlements (SAVE) system managed by the U.S. Citizenship and Immigration Services of the Department of Homeland Security.
- o) SSA – The U.S. Social Security Administration
- p) SSN – The Social Security Number issued by SSA as shown on a SSA account card, on a W-2 form, on a SSA-1099 form, on a non-SSA-1099 form, or on a pay stub with the applicant's name and SSN on it.
- q) SSOLV – The Social Security Online Verification system managed by SSA.

(200) Qualifications for CO-RCSA Identification Documents

- a) Pursuant to section 42-2-506, C.R.S., individuals claiming to be temporarily lawfully present in the United States who apply for an Identification Document, must:
 - 1. Provide documents that demonstrate the applicant's identity, date of birth, full legal name and temporary lawful presence, for example:
 - i. An unexpired foreign passport bearing a photograph of the applicant in conjunction with a U.S. visa and I-94 showing class and expiration date that is verified using SAVE.

- ii. A valid Employment Authorization Document (EAD, Form I-766) that is verified using SAVE.
 - iii. Refugee/Asylee I-94, Arrival-Departure Record that is verified using SAVE, along with a photo identification document.
 - 2. In order to prove lawful presence the applicant must provide valid documentary evidence, verified using SAVE that demonstrates the applicant:
 - i. Is an alien lawfully admitted for temporary residence in the United States;
 - ii. Has conditional permanent resident status in the United States;
 - iii. Has an approved application for asylum in the United States or has entered into the United States in refugee status;
 - iv. Has a valid, unexpired non-immigrant visa or non-immigrant visa status for entry into the United States;
 - v. Has a pending application for asylum in the United States;
 - vi. Has a pending or approved application for temporary protected status in the United States;
 - vii. Has approved deferred action; or
 - viii. Provides evidence of a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.
 - 3. Present proof of current residency in Colorado.
- b) Pursuant to section 42-2-505, C.R.S., applicants who apply for an Identification Document, who cannot demonstrate lawful presence in the United States, must:
 - 1. Demonstrate residency in either of the following two ways:
 - i. Sign a DR 2212 CO-RCSA Affidavit that states that the applicant is currently a resident of Colorado; present evidence of residence in Colorado as provided in Section 200(b)(2) below; and present a certified proof of Colorado income tax return filing (from the Department) for the immediately preceding year; or
 - ii. Sign a DR 2212 CO-RCSA Affidavit that the applicant has continuously been a resident in Colorado for the immediately preceding 24 months, and present evidence of such residence in Colorado by providing:
 - A. In order to prove that the applicant has continuously resided in Colorado for the immediately preceding 24 months, the applicant must present three documents demonstrating: one for current residency (date on the document must not be older than 12 months from date of application), one for residency from one year prior (date on the document must be later than 12 months, but not later than 23 months prior to the date of application), and one for residency from two years prior (date on the document must be later than 23 months, but not later than 30 months prior to the date of application).

2. Evidence of residence in Colorado shall be demonstrated by presenting documents that include the applicant's name and principal residence, which must include a street address, and the date of the document. Examples include, but are not limited to: utility bill, credit card statement, pay stub or earnings statement, rent receipt, telephone bill, or bank statement.
 3. Provide documentation of the applicant's ITIN or, after January 1, 2019, proof of ITIN or SSN.
 - i. An SSN may be added to an applicant's record only by appearing in person and providing proof of SSN as specified in Section 100(p) above.
 - ii. An applicant's SSN shall be verified with the SSOLV.
 4. Sign a DR 2212 CO-RCSA Affidavit affirming that the applicant has applied to be lawfully present within the U.S., or will apply to be lawfully present as soon as the applicant is eligible.
 5. Provide documentation of the applicant's identity and date of birth by presenting one of the following documents, translated into English, from the applicant's country of origin:
 - i. A passport;
 - ii. A consular identification card; or
 - iii. A military identification document.
 6. The documents in Section 200(b)(5) must contain the applicant's full legal name; the applicant's date of birth; the date the document was issued; the name of the country that issued the document; and a full facial photograph of the applicant.
 7. The documents listed in Section 200(b)(5) above will be accepted for 10 years after the expiration date listed on the document. Documents without an expiration date will be accepted for 10 years from their issuance date.
 8. Applicants shall sign their name, under penalty of perjury, on all required affidavits and documents in the presence of a Department employee.
- c) Applicants may use an interpreter during their application. The use of an interpreter will be arranged for by the applicant and any costs associated with the use of an interpreter will be the responsibility of the applicant.
- d) Applicants may use an interpreter for the written test for a driver's license, minor's driver's license, or instruction permit.
1. All interpreters for applicants applying for a CO-RCSA driver's license, minor driver's license, or instruction permit must be at least 16 years old and show an unexpired driver's license or identification card from any state in the United States or any document provided in Section 200 (b)(5).
- e) A Colorado street address must be displayed except as provided below:
1. An alternative address may be displayed for individuals for whom a State law, regulation, or DMV procedure permits display of an alternative address.

2. An alternative address may be displayed for individuals who satisfy any of the following:
 - i. If the individual is enrolled in the Colorado Address Confidentiality Program, which allows victims of domestic violence, dating violence, sexual assault, stalking, or a severe form of trafficking, to keep, obtain and use alternative addresses; and provides that the address of such person must be kept confidential; or
 - ii. If the individual is entitled to have their address suppressed under state or federal law or suppressed by a court order including an administrative order issued by a State or Federal court; or
 - iii. If the individual is protected from disclosure of information pursuant to section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
3. In areas where a number and street name has not been assigned for U.S. mail delivery, an address convention used by the U.S. Postal Service is acceptable.

(300) Process for Translation

- a) All documents provided to the Department by the applicant shall be in English or have been translated into English.
- b) The original and corresponding translated documents shall be presented together at the time of application.
- c) All translated documents must have the following included at the end (must be typed or electronically printed on the same page as the translation, not on separate pieces of paper or the translation will not be accepted by the Department):
 1. An attestation that states: "I, [insert translator's full name], affirm that the foregoing is a complete and accurate translation from [insert foreign language] to the English language to the best of my ability. I further affirm that I am fully competent to translate from [insert foreign language] to the English language and that I am proficient in both languages;" and
 2. The number and state of issuance of the translator's unexpired driver's license, instruction permit, or identification card.
- d) All translated documents and information required by Section 300(c) shall be included in the applicant's permanent motor vehicle record.
- e) Applicants are responsible for all costs of translation.

(400) Fee Structure

- a) For those who cannot demonstrate lawful presence, the fee for a CO-RCSA driver's license or a minor driver's license is \$33.00, which includes an additional fee to cover direct and indirect costs. The cost for a CO-RCSA instruction permit is \$21.00, which includes an additional fee to cover direct and indirect costs. The cost for a CO-RCSA identification card is \$13.00, which includes an additional fee to cover direct and indirect costs.
- b) For those who can demonstrate temporary lawful presence, the cost for a CO-RCSA driver's license or minor driver's license under section 42-2-506, C.R.S. is twenty-eight dollars (\$28.00).

- c) For those who can demonstrate temporary lawful presence, the cost for a CO-RCSA instruction permit is \$16.80. The cost for a CO-RCSA identification card is \$11.50.

(500) Qualifications for Renewal

- a) CO-RCSA Identification Documents will expire three years after the date of issuance except as provided below:
 - 1. A driver's license issued to an applicant under 21 will expire three years after the date of issuance or 20 days after the 21st birthday of the applicant (whichever comes first).
 - 2. An identification card or instruction permit issued to an applicant under 21 will expire three years after the date of issuance or on the 21st birthday of the applicant (whichever comes first).
- b) Applicants may apply in person, by mail, or online in accordance with C.R.S. 42-2-118 or 42-2-304 to renew a CO-RCSA Identification Document.
 - 1. Until January 1, 2019 applicants must apply in person for renewal.
 - 2. Renewals by mail and online renewals will not be processed with an out of state mailing address.
- c) An applicant seeking to renew an Identification Document is required to present the same identity documentation as required under Section 200 of this rule, except that the applicant may present a Colorado Identification Document expired less than one year instead of the identification documents required by Section 200(b)(5).
- d) An applicant who cannot demonstrate lawful presence seeking to renew an Identification Document is not required to present proof of ITIN or SSN if proof was provided at time of issuance of a previous Identification Document.

(600) Qualifications for Issuance of a Duplicate Credential

- a) Beginning January 1, 2019, applicants may apply for a duplicate of an existing CO-RCSA Instruction Permit or Driver's License as provided below:
 - 1. The applicant must appear in person and certify, under penalty of perjury, that the previous credential was lost, stolen, or destroyed by completing the "Request for Duplicate Instruction Permit/Driver License" (DR2989) form provided by the Department.
 - 2. The applicant must present proof documents as required in Section 200 above except that proof of ITIN or SSN is not required if proof of ITIN or SSN was provided for issuance of a previous Identification Document.
 - 3. A duplicate will not be issued to an applicant with a lawful presence status that has changed since issuance of the previous credential. A change of lawful presence status requires renewal.
 - 4. Only two duplicate credentials may be issued per renewal period unless additional duplicates are approved by the Department.

(700) Process for Complete Application

- a) When an applicant has completed the required application and established the standards set forth in this rule, the applicant will be required to review and verify the information on the application by signing a "signature capture device," a fingerprint will be captured, and a photograph of the applicant will be taken. A temporary CO-RCSA Identification Document will be issued. The permanent CO-RCSA Identification Document will be mailed to the applicant at the address provided on the applicant's application.

(800) Process for Incomplete Application

- a) If an application is incomplete or the applicant has failed to provide documents verifiable by the Department for identity, date of birth, residency, or lawful presence, the Department shall provide a Notice of Incomplete Application unless the Department provides a Notice of Denial per Section 800 below.
- b) The Notice of Incomplete Application shall include a notation of the information that is incomplete, or of the documentation that is unverifiable. If the authenticity of a document cannot be verified, then an application may be considered incomplete and additional documentation may be required, or the applicant may be referred to Exceptions Processing. An applicant may return to the Department with the required additional documentation prior to being denied an Identification Document.

(900) Denial of Application

- a) If an application is incomplete or the applicant has failed to provide documents verifiable by the Department for identity, date of birth, residency, or lawful presence, the Department shall provide a Notice of Denial.
- b) Nothing in this regulation shall be construed to prevent the Department from denying an application on the basis that an applicant has presented documents that are fraudulent or that are not verifiable.
- c) Nothing in this regulation restricts or prohibits the Department from verifying any document presented by an applicant.
- d) An application shall be denied if the applicant presents fraudulent or altered documents or commits any other fraud in the application process.

(1000) Hearing and Final Agency Action

- a) An applicant who has received a Notice of Denial may, within 60 days of the date of the Notice of Denial, request a hearing on the denial by filing a written request for hearing with the Hearings Section of the Department at 1881 Pierce St. #106, Lakewood, CO 80214.
- b) Hearings shall be held in accordance with the provisions of the State Administrative Procedure Act, and the provisions of Title 42 of the Colorado Revised Statutes.
- c) The only issue at a hearing shall be whether the Applicant has satisfied federal and state requirements for the issuance of an Identification Document.

- d) The hearing officer shall issue a written decision. If the hearing officer finds that the applicant has not satisfied federal and state requirements for the issuance of an Identification Document, then the denial shall be sustained. If the hearing officer finds that the applicant has satisfied requirements for the issuance of an Identification Document, then the denial shall be rescinded and the Department shall issue an Identification Document.
- e) The decision by the hearing officer shall constitute final agency action, and is subject to judicial review as provided by section 24-4-106, C.R.S.

RULE 2: INTERSTATE DRIVER LICENSE COMPACT RULE

Basis: These rules are promulgated pursuant to sections 24-4-104, 24-60-1101 et seq., 42-1-204, C.R.S.

Purpose: The purpose of this rule is to clarify the administrative procedures related to the Driver License Compact when a driver is either applying for a license in a party state, when a conviction is applied to a record in a party state, and the process for a driver to reinstate their driving privilege following a revocation or suspension.

1. DEFINITIONS:

- 1.1 "DMV" means the Department of Revenue, Division of Motor Vehicles for the state of Colorado.
- 1.2 "Revocation" means the administrative action of cancelling an individual's driving privilege for a statutorily prescribed period of time following a conviction as set forth in section 24-60-1101, Article IV. In order to regain their driving privilege, an individual must reapply for a driver license and take all requisite tests.
- 1.3 "Suspension" means the administrative action of removing an individual's driving privilege, following a conviction as set forth in section 24-60-1101, Article IV, for a prescribed period of time or until a specific action is taken. In order to regain their driving privilege, the individual must wait for the defined period of time or complete the actions specified.

2. LICENSING OF DRIVERS CURRENTLY REVOKED OR SUSPENDED IN A PARTY STATE

- 2.1. Whenever the DMV receives a driver license application from an applicant whose driving privilege is revoked or suspended in a party state, and if revoked, it has not been one year from the effective date of the revocation, or if suspended and the period of suspension has not yet terminated, then the DMV will issue a written notice of denial to such applicant. The notice shall identify the state(s) where the applicant's privilege is under suspension or revocation. The notice shall contain information concerning the applicant's right to a hearing in accordance with 24-4-104 C.R.S. and that the applicant may contact the party state for more information including obtaining a letter of clearance from the party state issuing the revocation or suspension if applicable.
- 2.2. Any applicant who is denied a Colorado driver license based on the existing revocation or suspension of their license in another party state may request a hearing to determine eligibility for licensing under these rules.

- 2.3. Upon notification from the Hearings Division that a hearing request has been received from an applicant whose application was denied based on a revocation or suspension in a party state, DMV will then acquire the applicant's driving record from the party state and analyze that record, applying Colorado law. Analysis of the party state record shall constitute the investigation required in Article V of the Driver License Compact as set forth in 24-60-1101 et seq. C.R.S.
- 2.4. At hearing, the applicant must show that:
 - a. At least one year has passed since the party state license was revoked, or that the period of suspension on the party state license has terminated;
 - b. He or she has not driven since the imposition of the revocation or suspension; and
 - c. He or she is now a Colorado resident.
 - i. Residence may be established by such evidence as proof of employment, voter registration, utility bills or other documents which reflect that the applicant resides in Colorado.
 - d. Applicant is safe to drive a motor vehicle on the public highways in Colorado and would not endanger the safety of persons or property by driving on the public highways.
- 2.5. Any evidence of a traffic conviction for an offense occurring during the period of suspension or revocation shall rebut paragraph 2.4 b. above, and an applicant shall be required to wait one year from the violation date before applying for a Colorado license under these rules; or until one year after the date of Colorado reinstatement eligibility, whichever is longer.
- 2.6. DMV shall have the burden at the hearing to show that the applicant is not eligible for licensing based on its analysis of the applicant's party state driving record.
 - a. DMV shall present its analysis and calculate the reinstatement eligibility date as determined under Colorado law.
 - b. In calculating reinstatement eligibility, the DMV shall credit the length of time spent under the party state's revocation or suspension to the period of suspension or revocation required under Colorado law.
 - c. If the calculated reinstatement eligibility date has passed, the applicant shall be eligible to apply for a Colorado driver's license upon the completion of any required reinstatement conditions.
 - d. If the calculated reinstatement eligibility date is established to be a date in the future, that future date shall be the date upon which the applicant becomes eligible to apply for the Colorado license.
- 2.7. If an applicant is not eligible under Colorado law for reinstatement, based on a revocation or suspension in a party state, then the applicant is also not eligible for any limited driving privilege, such as a probationary or temporary license.

- 2.8. In no event shall a Colorado driver's license be issued to any applicant if the period from the imposition of a revocation by a party state is less than one year, or if the period of suspension imposed by a party state has not terminated.

3. REINSTATEMENT IN THE OTHER PARTY STATE

- 3.1. If at the time of application the applicant presents a reinstatement order or letter of clearance from the party state, the application for a Colorado driver license shall be processed.

RULE 3 DRIVER LICENSE RE-EXAMINATION / MEDICAL EXAMINATION

Basis: These rules are promulgated pursuant to sections 42-2-111, 42-2-112, and 42-2-104, C.R.S.

Purpose: The purpose of this rule is to provide medical criteria for driver licensing based upon information or evidence received indicating a driver may not be competent, physically or mentally able, or is otherwise not qualified to operate a vehicle safely.

1. DEFINITIONS

- 1.1 Medical Examination – means a medical evaluation evidenced by a completed and signed DR 2401 Confidential Medical Report or DR 2402 Confidential Eye Report concerning whether a licensed driver or applicant is physically or mentally able to safely operate a motor vehicle, and/or any special restrictions or requirements which must be placed on the driving privilege.
- 1.2 Re-Examination – means a Department-required eye examination, written test, and driving examination, to determine a licensed driver's or applicant's fitness to operate a motor vehicle safely upon the highways.

2. RECEIPT OF INFORMATION CONCERNING A DRIVER OR APPLICANT'S PHYSICAL OR MENTAL ABILITY TO OPERATE A MOTOR VEHICLE SAFELY UPON THE HIGHWAYS OF COLORADO

- 2.1 For the purpose of determining whether the Department has reason to believe that a driver or applicant is physically or mentally unable to safely operate a motor vehicle upon the highways of this state, the Department may receive information from the following sources:
 - a. Law enforcement agencies may send information to the Department on the DR 2536 Request for Driver License Re-Examination form. The form must be fully completed and detail the basis for the request.
 - b. Courts may request a physical or mental examination or re-examination of a driver or applicant, or driver license re-examination.
 - c. A written medical opinion from any physician, physician assistant, or optometrist on the DR 2401 Confidential Medical Report or DR 2402 Confidential Eye Report. Physicians, physician assistants, optometrists, and nurse practitioners may also send information to the Department on office letterhead.

- d. Immediate family as defined in section 42-1-102(43.5) may send information to the Department on a written request. The request must include the name, address, and relationship of the requestor to the driver. The request must detail the specific circumstances and description of the driver's actions which led to the request. Any driver who is required to submit to reexamination has the right to know who submitted the reexamination request to the Department by performing a record request and paying the appropriate fee.
 - e. Any Division of Motor Vehicle employee or agent who, while working in their official capacity, has information that a driver may not be physically or mentally able to operate a motor vehicle safely.
- 3. Procedure for Re-examination
 - 3.1 Upon written notice of cancellation by the Department, a driver has 20 days following the date of the notice to complete and pass an eye examination, written test, and driving examination at any full-service driver license office.
 - a. If a driver is unable to complete and pass the required eye examination, written test, before the end of the 20th day following the date of notice, the Department will cancel the driving privilege.
 - b. If the driver is able to pass the eye examination and written test but fails the driving examination, they may purchase and receive a 60-day driver permit and retake the driving examination upon payment of the required fee. If the driving examination is not passed within the 60 days, the driving privilege will be cancelled.
- 4. Procedure for Notice of Cancellation of Driving Privilege for Required Medical Examination
 - 4.1 Upon written notice of cancellation by the Department, a driver has 30 days to produce a completed and approved DR 2401 Confidential Medical Report or DR 2402 Confidential Eye Report to the Department in order to prevent cancellation of the driving privilege.
 - 4.2 If a completed and approved DR 2401 Confidential Medical Report or DR 2402 Confidential Eye report is not received by the Department before the end of the 30th day following the date of notice, the department will cancel the driving privilege.
 - 4.3 The evaluation date noted on a completed and approved DR 2401 Confidential Medical Report or DR 2402 Confidential Eye Report must have occurred after the date on the notice of cancellation and within 180 days of receipt by the Department.

RULE 5 EVIDENCE OF LAWFUL PRESENCE

BASIS: This rule is promulgated under the authority of section 24-76.5-103, C.R.S.

PURPOSE: The following rule is promulgated to provide a list of documents recognized by the federal government to prove lawful presence, and to establish a waiver process to ensure that those persons seeking federal public benefits or state and local public benefits, who prove lawful presence in the United States, receive authorized public benefits.

1. Definitions

- 1.1 Applicant – A natural person eighteen years of age or older seeking non-exempt Public Benefits. Reference to Applicant includes actions through the Designated Representative, defined below.

- 1.2 Benefit Agency – An agency or political subdivision of the State of Colorado that administers, determines eligibility for, or assists persons in applying for Public Benefits.
- 1.3 Department – Means the Department of Revenue.
- 1.4 Designated Representative – A natural person submitting a Request for Waiver on behalf of an Applicant.
- 1.5 Public Benefit – For purposes of this Rule, “Public Benefit” means “federal public benefit” and “state and local benefit” as those terms are defined in 8 U.S.C. secs. 1611 and 1621, respectively.
- 1.6 Request for Waiver – Means form DR 4678 “Request for Waiver – Restrictions on Public Benefits” completed by an Applicant seeking a determination of lawful presence by the Department after a Benefit Agency has been unable to verify the Applicant’s lawful presence.
- 1.7 Systematic Alien Verification for Entitlements (“SAVE”) – A web-based service administered by the U.S Citizenship and Immigration Service to assist federal, state, and local benefit-issuing agencies, institutions, and licensing bureaus in determining the immigration status of benefit applicants.
- 1.8 Valid Colorado driver license or a valid Colorado identification card – For purposes of section 24-76.5-103(4)(a)(I), C.R.S., means a current Colorado driver license, minor driver license, commercial driver license, restricted driver license, instruction permit, or identification card, but does not include a document issued pursuant to part 5 of article 2 of title 42 that states on the front of the document that it is “NOT VALID FOR FEDERAL IDENTIFICATION, VOTING, OR PUBLIC BENEFIT PURPOSES”.
- 1.9 Waiver – Means a Department decision that an Applicant has proven lawful presence by means other than the document requirements under subsection 2.1 of this Rule.

2. Verification Requirements

- 2.1 A first time Applicant or an Applicant seeking to reapply for Public Benefits on or after August 1, 2006, must execute the affidavit required in section 24-76.5-103(4)(b) C.R.S., and demonstrate lawful presence by providing:
 - 2.1.1 A document listed in section 24-76.5-103(4)(a) C.R.S. (2014);
 - 2.1.2 In the case of a resident of another state, the driver license or a state-issued identification card from the Applicant’s state of residence, if that state requires that the Applicant prove lawful presence prior to issuance of the license or identification card;
 - 2.1.3 A document listed in the Code of Federal Regulations (CFR) as providing proof of lawful presence;
 - 2.1.4 A document listed in Appendices A and B, which appendices are incorporated herein and part of this Rule;
 - 2.1.5 Any document authorized as proof of lawful presence pursuant to the statutes, regulations, or agency guidance governing the Benefit Agency; or
 - 2.1.6 Any document recognized by the Federal government as proof of lawful presence that is not listed or referenced within this Rule.

3. Waiver Process

- 3.1 An Applicant who has been denied a Public Benefit by a Benefit Agency because the Applicant could not provide a document listed or referenced in this Rule may request that the Department grant the Applicant a Waiver by submitting a Request for Waiver and a copy of the document from the Benefit Agency denying benefits unless unavailable.
- 3.1.1 The Request for Waiver may be completed and/or submitted by an Applicant or by the Applicant's Designated Representative.
- 3.1.2 The Request for Waiver must be accompanied by all documents the Applicant wants the Department to consider to prove lawful presence.
- 3.1.3 The Applicant must submit the Request for Waiver to the Colorado Department of Revenue, Division of Motor Vehicles or any Colorado Department of Revenue, Division of Motor Vehicles Driver License office and send a copy to the Benefit Agency.
- 3.2 Pursuant to section 24-76.5-103(5)(a), C.R.S., the Department may grant an Applicant's Request for Waiver of the requirement that the Applicant prove lawful presence through the documents referenced in subsection 2.1 of this Rule if the Department determines that the Applicant has proven lawful presence by other means.
- 3.3 Subsequent to receipt of a Request for Waiver, the Department will make a determination of the lawful presence of the Applicant and will issue a Waiver or a Notice of Denial of Waiver. The Waiver or a Notice of Denial of Waiver will be mailed to the address of the Applicant as shown on the Request for Waiver or as subsequently furnished in writing by the Applicant to the Department.

4. Denial of Request for Waiver

- 4.1 Reasons for denial of a Request for Waiver include, but are not limited to:
- 4.1.1 The SAVE verification fails to clear the Applicant; or
- 4.1.2 The documents presented by the Applicant appear to have been tampered with, altered, or otherwise not genuine; or
- 4.1.3 The statements and/or documents provided are inconsistent and the Applicant is unable to reasonably explain the inconsistencies; or
- 4.1.4 The Applicant fails to respond to a request by the Department within 60 days following the date of mailing of such request.

5. Hearing and Final Agency Action

- 5.1 An Applicant, or his or her Designated Representative, may, within 60 days of the date of notice of a denial for a Request for Waiver, or any Benefit Agency may, within 60 days of the date that the Benefit Agency receives notice of a Waiver, request a hearing on the Department's decision by filing a written request for hearing with the Hearings Division of the Department at 1881 Pierce St. #106, Lakewood, CO 80214.
- 5.2 All proceedings will conform to the provisions of the State Administrative Procedure Act [section 24-4-101, et seq, C.R.S.] and the provisions of title 42 of Colorado Revised Statutes.

- 5.3 The only issues at hearing will be whether and when the Applicant has established lawful presence in the United States by a preponderance of the evidence.
- 5.3.1 The Hearing Officer may consider any credible evidence, whether documents, witnesses, or other evidence offered by any party. For purposes of this rule, "party" means the Applicant, the Department, or any Benefit Agency.
- 5.3.2 If the Hearing Officer cannot determine the actual date that the Applicant became lawfully present in the United States, the Applicant shall be deemed lawfully present as of the date provided by the statutes, regulations, or agency guidance governing the Benefit Agency, or if none, as of the filing date of the original application denied by the Benefit Agency.
- 5.4 The Hearing Officer shall issue an Initial Decision within 15 business days of the completion of the hearing. If the Hearing Officer finds that the Applicant has not established lawful presence, then if a Denial of Waiver was previously issued, the Denial of Waiver will be sustained, or if a Waiver was previously granted, the Waiver will be rescinded. If the Hearing Officer finds that the Applicant is lawfully present, then, if a Denial of Waiver was previously issued, the Denial of Waiver will be rescinded and the Department will be directed to issue a Waiver, or if a Waiver was previously issued, the Waiver will be sustained.
- 5.5 An appeal under this Rule does not toll or otherwise affect any Benefit Agency appeal or other procedure or process unless expressly authorized by the Benefit Agency.

6. General Provisions

- 6.1 Each Benefit Agency is responsible for verifying that the Applicant is the same individual indicated as the person who received a Waiver.
- 6.2 Waivers may be cancelled by the Department, if the Department subsequently determines that the Applicant was not or is not lawfully present. Upon cancelling a Waiver, the Department will notify the Applicant and appropriate Benefit Agencies.
- 6.3 A person whose Waiver has been cancelled by the Department may appeal the Department's decision by requesting a hearing as provided in subsection 5.1 of this Rule within 60 days following the mailing date of the notice cancelling the Waiver.
- 6.4 Waivers issued by the Department since August 1, 2006, but prior to approval of this Rule, will continue in effect unless expired, or cancelled by the Department

7. Incorporation by Reference

- 7.1 The materials in this Rule incorporated by reference do not include later amendments to or editions of the materials. The materials incorporated in this Rule are on file and available for inspection by contacting the Driver License Section of the Department of Revenue in person at, 1881 Pierce Street, Room 128, Lakewood, Colorado, 80214, or by telephone at 303-205-5600, and copies of the materials may be examined at any state publication depository library.

APPENDIX A

THE FOLLOWING LIST DOES NOT INCLUDE ALL DOCUMENTS THAT MAY BE ACCEPTED TO ESTABLISH LAWFUL PRESENCE - SEE ALSO, SUBSECTIONS 2.1.3 THRU 2.1.6 OF THIS RULE.

The following documents are acceptable as proof of lawful presence pursuant to AG Order Number 2129-97, Federal Register, Vol. 62, No. 221, November 17, 1997, incorporated herein by reference (the "AG Order").

A. Primary Evidence

One of the following documents - when combined with satisfactory proof of identification – demonstrates that the Applicant is a U.S. citizen or non-citizen national. Identity can be proven by these same documents if they bear a picture of the Applicant:

1. Copy of Applicant's birth certificate from any state, the District of Columbia, or all United States territories;
2. United States Passport, except for "limited" passports, issued for less than five years;
3. Report of Birth Abroad of a United States Citizen, form FS-240;
4. Certificate of Birth issued by a foreign service post (FS-545) or Certification of Report of Birth (DS-1350). These are available from the Department of State;
5. Certification of Naturalization (N-550 or N-570). The N-570 is issued upon loss or damage to the original document or following an individual's name change;
6. Certificate of Citizenship (N-560 or N-561). This document is issued to those persons who derive U. S. citizenship through a parent. The N-561 is issued upon loss or damage of the original document or following an individual's name change;
7. U. S. Citizen Identification Card (I-197), last issued in 1983, or Form I-179, last issued in 1974.
8. Northern Mariana Identification Card. Those born in the Northern Mariana Islands prior to November 3, 1986, were collectively naturalized;
9. Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen. (This document is provided to an individual born outside the U.S. who derived citizenship through a parent but does not have form FS-240, FS-545 or DS-1350);
10. American Indian Card with classification code "KIC" and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

B. Secondary Evidence

If the Applicant cannot present one of the documents listed above, the following may be relied upon to establish U.S. citizenship or nationality:

1. Religious record recorded in one of the 50 states, the District of Columbia and U.S. territories, within three months after birth, showing that the birth occurred in such jurisdiction, and the date of the birth or the individual's age at the time the record was made;
2. Evidence of civil service employment by the U.S. Government before June 1, 1976;
3. Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth and the names and places of birth of the parents;
4. Census record showing name, U.S. citizenship or a U.S. place of birth or age of Applicant;
5. Adoption Finalization Papers showing the child's name and place of birth in one of the 50 states, Washington D.C., or U.S. territories or, where the adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child's name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or
6. Any other documents that establish a U.S. place of birth or in some way indicates U.S. citizenship.

C. If an Applicant is unable to present any of the above documents, the following options are available:

1. Accept a written declaration, made under penalty of perjury, and possibly subject to later verification of status, from one or more third parties, indicating a reasonable basis for personal knowledge that the Applicant is a U.S. citizen or non-citizen national.
2. Accept the Applicant's written declaration, made under penalty of perjury and possibly subject to later verification of status, that he or she is a U.S. citizen or non-citizen national.

Note: These options (C 1 and C 2) should be used with caution in appropriate circumstances. For example, before using these options, a provider might require the Applicant to demonstrate why a document evidencing that he or she is a U.S. citizen or non-citizen national does not exist or cannot be readily obtained.

D. Collective Naturalization

If the Applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

1. Puerto Rico (PR):

Evidence of birth in PR on or after April 11, 1899, and the Applicant's statement that he or she was residing in the U.S., a U.S. possession, or PR on January 13, 1941; or

Evidence that the Applicant was a PR citizen and the Applicant's statement that he or she was residing in PR on March 1, 1917; and that he or she did not take an oath of allegiance to Spain.

2. U.S. Virgin Islands:

Evidence of birth in the U.S. Virgin Islands (USVI) and the Applicant's statement of residence in the U.S., a U.S. possession, or the USVI on February 25, 1927;

The Applicant's statement indicating residence in the USVI as a Danish citizen on January 17, 1917, and that he or she did not make a declaration to maintain Danish citizenship; or

Evidence of birth in the USVI and the Applicant's statement indicating residence in the U.S., U.S. Possession or Territory or the Canal Zone on June 28, 1932.

3. Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):

Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the Applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);

Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975, and the Applicant's statement that he or she did owe allegiance to a foreign state on November 4, 1986 (NMI local time); or

Evidence of continuous domicile in the NMI since before January 1, 1974, and the Applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile, and the individual is not a U.S. citizen.

E. Derivative Citizenship

If the Applicant cannot present one of the above documents, you should make a determination of derivative U.S. citizenship in the following situations:

Applicant born abroad to two U.S. citizen parents:

Evidence of U.S. citizenship of the parents and the relationship of the Applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the Applicant's birth.

Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent:

Evidence that one parent is a U.S. citizen and the other is a U.S. non-citizen national, evidence of the relationship of the Applicant to the U.S. citizen parent, and the evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the Applicant's birth.

Applicant born out of wedlock abroad to a U.S. citizen mother:

Evidence of U.S. citizenship of the mother, evidence of the relationship to the Applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the Applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.

Applicant born in the Canal Zone or the Republic of Panama:

A birth certificate showing birth in the Canal Zone on or after February 26, 1904, and before October 1, 1979, and evidence that one parent was a U.S. citizen at the time of the Applicant's birth; or

A birth certificate showing birth in the Republic of Panama on or after February 26, 1904, and before October 1, 1979, and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

All other situations where an Applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

If the Applicant is in the U.S., refer him or her to the local U.S. Citizenship and Immigration Services (USCIS) office for determination of U.S. citizenship;

If the Applicant is outside the U.S., refer him or her to the State Department for a U.S. citizenship determination.

F. Adoption of Foreign-Born Child by U.S. Citizen:

If the birth certificate shows a foreign place of birth and the Applicant cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S. citizenship;

Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the Applicant to the local USCIS district office for a determination of U.S. citizenship if the Applicant provides no evidence of U.S. citizenship [the law changed several years ago to allow such children to obtain automatic citizenship].

G. U.S. Citizenship by Marriage

A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922.

Note: If the husband was an alien at the time of the marriage and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.

APPENDIX B

THE FOLLOWING LIST DOES NOT INCLUDE ALL DOCUMENTS THAT MAY BE ACCEPTED TO ESTABLISH LAWFUL PRESENCE - SEE ALSO, SUBSECTIONS 2.1.3 THRU 2.1.6. OF THIS RULE.

The documents listed below, if not expired, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that the Applicant is lawfully present for purposes of this Rule. For specific detailed descriptions of the Immigration Documents referred to below see Exhibit A to Attachment 5 of the AG Order.

Alien Lawfully Admitted for Permanent Residence

1. Form I-551 (Alien Registration Receipt Card, commonly called or known as a "green card"); or
2. Unexpired Temporary I-551 stamp in foreign passport or on Form I-94.

Asylee

3. Form I-94 annotated with stamp showing grant of asylum under section 208 of the Immigration and Nationality Act (INA);
4. Form I-688B (Employment Authorization Card) annotated "274a.12(a)(5)";
5. Form I-776 (Employment Authorization Document) annotated "A5";
6. Grant Letter from the Asylum Office or USCIS; or
7. Order of an immigration judge granting asylum.

Refugee

8. Form I-94 annotated with stamp showing admission under Section 207 of the INA;
9. Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)"; or
10. Form I-766 (Employment Authorization Document) annotated "A3"; or
11. Form I-571 (Refugee Travel Document).

Alien Paroled into the U.S. for a Least One Year

12. Form I-94 with stamp showing admission for at least one year under Section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement).

Alien Whose Deportation or Removal Was Withheld

13. Form I-688B (Employment Authorization Card) annotated 274a.12(a)(10);

14. Form I-766 (Employment Authorization Document) annotated "A10"; or
15. Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA.

Alien Granted Conditional Entry

16. Form I-94 with stamp showing admission under Section 203(a)(7) of the INA;
17. Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)"; or
18. Form I-766 (Employment Authorization Document) annotated "A3".

Cuban/Haitian Entrant

19. Form I-551 (Alien Registration Receipt Card, commonly known as a "green card,") with the code CU6, CU7, or CH6;
20. Unexpired temporary I-551 stamp in foreign passport or on Form I-94 with the code CU6 or CU7;
21. Form I-94 with stamp showing parole as "Cuba/Haitian Entrant" under Section 212(d)(5) of the INA.

Alien Who Has Been Battered or Subjected to Extreme Cruelty

See Attachment 5, Exhibit B, Section II, of the AG Order.

The documentation for Violence Against Women Act self-petitioners is the USCIS issued "Notice of Prima Facie Determination" or "Notice of Approval".

RULE 6 RULES FOR THE APPLICATION FOR A DRIVER'S LICENSE, INSTRUCTION PERMIT OR IDENTIFICATION CARD FOR U.S. CITIZENS AND INDIVIDUALS WHO CAN DEMONSTRATE PERMANENT LAWFUL PRESENCE AND COLORADO RESIDENCY

Basis, Purpose and Statutory Authority:

The statutory bases for this regulation are sections 24-4-103, 24-72.1-103, 42-1-204, 42-2-107, 42-2-108, and 42-2-302, C.R.S.

The purpose of this rule is to set forth regulations for the types of documents the Department will accept as proof of the applicant's identity, date of birth, social security number, address of principal residence in Colorado, and U.S. citizenship or permanent lawful presence when applying for a driver's license, instruction permit, or identification card. Additionally, this rule describes the process the applicant will be required to follow for completing the application and what will occur if an application is incomplete or denied, including the process the applicant may use to request a hearing if their application is denied.

1.1 Definitions

- 1.2 Applicant—Any natural person applying to the Department for a Colorado driver's license, minor driver's license, instruction permit, or identification card who is a U.S. citizen or who can demonstrate permanent lawful presence in the U.S. and residency in Colorado.

- 1.3 Department—The Colorado Department of Revenue.

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- 1.4 Document—An original document certified by the issuing agency, an amended original document certified by the issuing agency, or a true copy certified by the issuing agency, excluding miniature, wallet sized, or photocopies of documents.
- 1.5 Driver's License—A driver's license, minor driver's license, or instruction permit.
- 1.6 Exceptions Processing—The procedure the Department has established for persons who are unable, for reasons beyond their control, to present all necessary documents and must rely on alternative documents to establish identity, date of birth, or U.S. citizenship in lieu of lawful presence.
- 1.7 Full Legal Name —The applicant's first name, middle name(s), and last name or surname, without use of initials or nicknames, as it appears on the applicant's documents presented upon application.
- 1.8 Hearing—Hearing before a Department Administrative Hearing Officer.
- 1.9 Identification Card—A document issued by A Department of Motor Vehicles or its equivalent that contains the applicant's full legal name, full facial digital photograph, date of birth, and sex, but does not confer upon the bearer the right to operate a motor vehicle.
- 1.10 Identity—The verifiable characteristics that when taken together make a person unique and identifiable. Evidence of identity includes proof of name, date of birth, and physical characteristics, including a verifiable photograph.
- 1.11 Incomplete Application—An application for a Colorado driver's license, instruction permit, or identification card that does not satisfy federal and state requirements for the issuance of a Colorado driver's license, instruction permit, or identification card.
- 1.12 Lawful Presence— The status of a person who demonstrates U.S. citizenship or permanent lawful presence.
- 1.13 SAVE— The Department of Homeland Security Systematic Alien Verification for Entitlements system, managed by the U.S. Citizenship and Immigration Services of the Department of Homeland Security.
- 1.14 SSN — The Social Security Number issued by the U.S. Social Security Administration (SSA).
- 1.15 SSOLV—The Social Security Online Verification system managed by the Social Security Administration (SSA).

2.1 Proof of Identity, Date of Birth, and Lawful Presence

- 2.2 Every application for a Colorado driver's license, instruction permit, or identification card shall include the applicant's full legal name, date of birth, sex, SSN, and address of principal residence.
- 2.3 An applicant must provide source documents that are secure and verifiable as defined in section 24-72.1-102(5), C.R.S.
- 2.4 The following documents or combination of documents are acceptable to establish identity, date of birth, and lawful presence:

- 2.4.1 A valid unexpired Colorado driver's license, instruction permit, or identification card except that a Colorado driver's license, instruction permit, or identification card issued under the Colorado Road and Community Safety Act, section 42-2-501 et seq., C.R.S. is not acceptable.
- 2.4.2 A valid unexpired U.S. passport bearing the full legal name of the applicant.
- 2.4.3 A certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the applicant's state of birth.
- 2.4.4 A Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State (Form FS-240, DS-1350, or FS-545).
- 2.4.5 A valid, unexpired Permanent Resident Card (Form I-551) issued by the Department of Homeland Security (DHS) or the U.S. Immigration and Naturalization Service).
- 2.4.6 A Certificate of Naturalization issued by DHS (Form N-550 or N-570).
- 2.4.7 A Certificate of Citizenship issued by DHS (Form N-560 or N-561).
- 2.4.8 In addition to the documents listed in Section 2.3, the following documents may also be used to establish an applicant's identity and date of birth: A valid unexpired REAL ID driver's license, instruction permit, or identification card issued in compliance with the standards established by the federal REAL ID Act and verified with the state of issuance, and such other documents as determined by the Department consistent with the REAL ID Act.
- 2.5 If an applicant submits any source document that reflects a name differing from the applicant's full legal name (for example through marriage, adoption, court order or other mechanism permitted by state law or regulation), the Department shall require evidence of the name change through the presentation of documents issued by a court, governmental body, or other entity as determined by the Department.
- 3.1 Social Security Requirements**
- 3.2 An applicant must present his or her SSA account card; if the SSA account card is not available, the applicant may present any of the following documents bearing the applicant's SSN:
 - 3.1.1 SSA account number card; or, if a SSA account card is not available, the person may present any of the following documents bearing the applicant's SSN:
 - 3.1.1 A W-2 form,
 - 3.1.2 A SSA-1099 form,
 - 3.1.3 A non-SSA-1099 form, or
 - 3.1.4 A pay stub with the applicant's name and SSN on it.
- 3.2 An applicant's SSN shall be verified with the SSOLV.

4.1 Qualifications for Issuance of a Duplicate Driver's License or Identification Card

4.2 Applicants may apply for a duplicate of an existing Instruction Permit or Driver's License as provided below:

4.2.1 Applicants for a duplicate driver's license or identification card who are within Colorado must appear in person and certify, under penalty of perjury, that the previous driver's license or identification card was lost, stolen, or destroyed by completing the "Request for Duplicate Instruction Permit/Driver License" (DR2989) form provided by the Department.

4.2.2 Applicants for a duplicate driver's license or identification card who are out of state must submit, by mail, the "Request for Duplicate Instruction Permit/Driver License" (DR 2989) form provided by the Department on which the applicant must certify, under penalty of perjury, that the previous driver's license or identification card was lost, stolen, or destroyed.

4.2. Duplicates by mail will be processed only for applicants who are out of state and provide an out of state mailing address.

4.2.1. Only two duplicate driver's licenses or identification cards may be issued per renewal period unless additional duplicates are approved by the Department.

5.1 Address of Principal Residence in Colorado

5.2 To document the address of principal residence in Colorado, an applicant must present at least two documents that include the applicant's name and principal residence. Examples include, but are not limited to: utility bill, credit card statements, pay stub or earnings statement, rent receipt, telephone bill, or bank statement:

5.3 A Colorado street address must be displayed except as provided below:

5.3.1 An alternative address may be displayed for individuals for whom a State law, regulation, or DMV procedure permits display of an alternative address.

5.3.2 An alternative address may be displayed for individuals who satisfy any of the following:

5.3.2.1 If the individual is enrolled in a State address confidentiality program, which allows victims of domestic violence, dating violence, sexual assault, stalking, or a severe form of trafficking, to keep, obtain and use alternative addresses; and provides that the address of such person must be kept confidential, or other similar program; or

5.3.2.2 If the individual's address is entitled to be suppressed under state or federal law or suppressed by a court order including an administrative order issued by a State or Federal court; or

5.3.2.3 If the individual is protected from disclosure of information pursuant to section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

5.3.3 In areas where a number and street name has not been assigned for U.S. mail delivery, an address convention used by the U.S. Postal Service is acceptable.

6.1 Process for Complete Application

- 6.2 When an applicant has completed the required application and established the standards set forth in this rule, an application will be printed; the applicant will be required to review and verify the information on the application by signing a “signature capture device”; a fingerprint will be captured; and a photograph of the applicant will be taken. The printed and signed application serves as the temporary Colorado driver’s license, instruction permit, or identification card. The permanent Colorado driver’s license, instruction permit, or identification card will be mailed to the applicant at the address provided on the application.

7.1 Process for Incomplete Application

- 7.2 If an application is incomplete or the applicant has failed to provide documents verifiable by the Department for identity, date of birth or lawful presence, the Department may provide a Notice of Incomplete Application.
- 7.3 The Notice of Incomplete Application shall include a notation of the reason for the decision that the application is incomplete. If the authenticity of a document cannot be verified, then an application may be considered incomplete and additional documentation may be submitted, or the applicant may be referred to Exceptions Processing. An applicant may return to the Department with additional documentation prior to being denied a Colorado driver’s license, instruction permit, or identification card.
- 7.4 Any applicant who has received a Notice of Incomplete Application and believes he or she has provided sufficient documentation to establish identity, date of birth, and U.S. citizenship may request Exceptions Processing.
- 7.5 Any applicant who has received a Notice of Incomplete Application and believes he or she has provided sufficient documentation to establish identity, date of birth, and U.S. citizenship, may request a Notice of Denial and contest the decision through the process described in section 8.0 below.

8.1 Denial of Applications

- 8.2 Nothing in this regulation shall be construed to prevent the Department from denying an application on the basis that an applicant has presented documents that are fraudulent or that are not secure and verifiable pursuant to section 24-72.1.102(5), C.R.S.
- 8.3 Nothing in this regulation restricts or prohibits the Department from verifying any document presented by an applicant.
- 8.4 An application shall be denied if the applicant presents fraudulent or altered documents or commits any other fraud in the application process.

9.1 Hearing and Final Agency Action

- 9.2 An Applicant who has received a Notice of Denial may, within 60 days of the date of the Notice of Denial, request a hearing on the denial by filing a written request for hearing with the Hearings Section of the Department at 1881 Pierce St. #106, Lakewood, CO 80214.
- 9.3 Hearings shall be held in accordance with the provisions of the State Administrative Procedure Act and the provisions of Title 42 of the Colorado Revised Statutes.

- 9.4 The only issue at the hearing shall be whether the applicant has satisfied federal and state requirements for the issuance of a Colorado driver's license, instruction permit, or identification card.
- 9.5 The hearing officer shall issue a written decision. If the hearing officer finds that the applicant has not satisfied federal and state requirements for the issuance of a Colorado driver's license, instruction permit, or identification card, then the denial shall be sustained. If the hearing officer finds that the applicant has satisfied federal and state requirements for the issuance of a Colorado driver's license, instruction permit, or identification card, then the denial shall be rescinded and the Department shall issue the Colorado driver's license, instruction permit, or identification card.
- 9.6 The decision by the hearing officer shall constitute final agency action, and is subject to judicial review as provided by section 24-4-106, C.R.S.

RULE 7 RULES AND REGULATIONS FOR THE COMMERCIAL DRIVER'S LICENSE (CDL) PROGRAM

A. BASIS, PURPOSE, AND STATUTORY AUTHORITY

- (1) The Department is authorized to adopt rules and regulations as necessary for the Commercial Driver's License Program in accordance with sections 24-4-103, 42-2-111(1)(b), 42-2-114.5, 42-2-403, 42-2-406 (3 through 7), and 42-2-407(8), C.R.S.
- (2) The purpose of these rules is to promote the safety and welfare of the citizens of Colorado by establishing standards and requirements for licensing commercial driver's license testing units and testers, to establish fees for such licensing and maximum fees that may be charged by such testing units, to establish certain procedures and standards for issuing and possessing commercial driver's licenses, and to ensure compliance with state and federal requirements.

B. INCORPORATION BY REFERENCE OF FEDERAL RULES

- (1) Adoption: The Department incorporates by reference the Federal Motor Carrier Safety Regulations ("FMCSR"), 49 CFR parts 171, 172, and 300-399, Qualifications and Disqualification of Drivers, 26 USC Section 501(c) (2015), and the Colorado Department of Public Safety, Colorado State Patrol, Rules and Regulations Concerning Minimum Standards for the Operation of Commercial Vehicles at 8 CCR 1507.1.
- (2) "49 CFR", when referenced in this rule, means the Federal Regulations published in the Code of Federal Regulations ("CFR"), Title 49, parts 171, 172, and 300-399 (October 1, 2016) by the National Archives and Records Administration's Office of the Federal Register and Government Publishing Office, and available at the original issuing agencies the Federal Motor Carrier Safety Administration and National Highway and Traffic Safety Administration, both located at 1200 New Jersey Avenue SE, Washington, D.C., 20590. The Federal rules and regulations referenced or incorporated in this rule, and 8 CCR 1507-1, are on file and available for inspection by contacting the Driver License Section of the Department of Revenue in person at, 1881 Pierce Street, Room 128, Lakewood, Colorado, 80214, or by telephone at 303-205-5600, and copies of the materials may be examined at any state publication depository library.

C. DEFINITIONS

- (1) AAMVA: American Association of Motor Vehicle Administrators is a voluntary, nonprofit, tax exempt, educational unit that represents state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws

- (2) CDL: "Commercial Driver's License" as defined in section 42-2-402(1), C.R.S.
- (3) CDL Compliance Unit: The administrative unit contained within the Department charged with the oversight and regulation of CDL third party testing units and testers on AAMVA's CDL skills testing.
- (4) CDL Passenger Vehicle: A passenger vehicle designed to transport 16 or more passengers, including the driver.
- (5) CDL Skills Test: "Driving tests" as referenced in section 42-2-402, C.R.S. and consists of the Vehicle Inspection, Basic Control Skills, and the Road Test.
- (6) CDL Vehicle Class: A group or type of vehicle as defined in Part B of this Rule.
- (7) CLP – Commercial Learners Permit: The permit issued by the Department entitling the driver, while having such permit in his/her immediate possession, to drive a commercial motor vehicle of certain classes and/or endorsement(s), and/or restriction(s) upon the highways with a driver that possesses a CDL with the same class and/or endorsements or higher, as the CLP holder.
- (8) CMV: "Commercial Motor Vehicle" as defined in section 42-2-402(4), C.R.S.
- (9) C.R.S.: Colorado Revised Statutes.
- (10) CSTIMS - Commercial Skills Test Information Management System: Web-based system used by states to manage the CDL Skills Test portion of the CDL licensing process.
- (11) Disqualifications: The suspension, revocation, cancellation, or any other withdrawal by the Department of a person's privilege to drive a CMV or a determination by the FMCSA under the rules of practice for motor carrier safety contained in 49 CFR, that a person is no longer qualified to operate a CMV under 49 CFR; or the loss of qualification that automatically follows conviction of an offense listed in 49 CFR.(12)
- (12) Designed to Transport: The manufacturer's original rated capacity for the vehicle.
- (13) Endorsements: The letter indicators below added to a CDL and/or CLP indicate successful completion of the appropriate knowledge, and if applicable, the CDL Skills Test, and allow the operation of a special configuration of vehicle(s):
 - a) T = Double/triple trailers (not allowed on a CLP per 49 CFR)
 - b) P = CDL Passenger vehicle
 - c) N = Tank vehicles
 - d) H = Hazardous materials (Not allowed on a CLP per 49 CFR)
 - e) S = School buses
 - f) X = Combination of tank vehicle and hazardous materials (Not allowed on a CLP per 49 CFR)
 - g) M = Motorcycle (not allowed on a CLP per 49 CFR)
 - h) 3 = Three wheel motorcycle (not allowed on a CLP per 49 CFR)

- (14) Exemptions: Regulatory relief given to a person or class of persons normally subject to regulations.
- (15) FMCSA: Federal Motor Carrier Safety Administration is an agency within the USDOT.
- (16) FMCSR: Federal Motor Carrier Safety Regulations (49 CFR).
- (17) GCWR: Gross Combination Weight Rating is the value specified by the manufacturer as the maximum loaded weight of the combination vehicle.
- (18) Government agency: A state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract cooperation only between or among the state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof.
- (19) Intrastate Driver: A driver with a CDL restricted to operating a CMV within the boundaries of Colorado, and not authorized to transport items of interstate commerce or hazardous materials.
- (20) Interstate Commerce: Trade, traffic, or transportation in the United States between a place in a state and a place outside of such state (including a place outside of the United States), or between two places in a state through another state or a place outside of the United States, or between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.
- (21) Interstate Driver: A CDL holder authorized to cross state lines and transport interstate commerce while operating a CMV.
- (22) Intrastate Commerce: Trade, traffic, or transportation in any state that is not described in the term "interstate commerce."
- (23) Knowledge Test: A written test that meets the federal standards contained in 49 CFR.
- (24) Non-Profit: An organization filing with the United States Code 26 USC Section 501(c).
- (25) Paved Area: A paved area is a surface made up of materials and adhesive compounds of a sufficient depth and strength that the area provides a durable, solid, smooth surface upon which an applicant may demonstrate basic vehicle control skills.
- (26) Public Transportation Entity: A mass transit district or mass transit authority authorized under the laws of this state to provide transportation services to the general public.
- (27) Restrictions: Prohibits the operation of certain types of vehicles or restricts operating a CMV to within designated boundaries:
 - a) L = No Air Brake equipped CMV
 - b) K = Intrastate only
 - c) E = No Manual Transmission
 - d) M = No Class A Passenger Vehicle
 - e) N = No Class A and B Passenger Vehicle

- f) O = No Tractor-Trailer
 - g) P = No Passenger
 - h) X = No Liquid in Tank
 - i) V = Medical Variance (49 CFR)
 - j) Z = Restricted from operating a CMV with full airbrakes
- (28) Self Certification Choice:
- **Non-excepted interstate.** A person's certification that he or she operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR, and is required to be medically examined and certified pursuant to 49 CFR.
 - **Excepted interstate.** A person's certification must certify that he or she operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR from all or parts of the qualification requirements of 49 CFR, and is therefore not required to be medically examined and certified pursuant to 49 CFR.
 - **Non-excepted intrastate.** A person's certification that he or she operates only in intrastate commerce and therefore is subject to Colorado driver qualification requirements.
 - **Excepted intrastate.** A person's certification must certify that he or she operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the Colorado driver qualification.
- (29) USDOT: United States Department of Transportation.

D. DRIVER LICENSING REQUIREMENTS

- (1) Each applicant applying for a CDL or CLP must be a resident of Colorado, at least 18 years of age, and comply with the testing and licensing requirements of the Department.
- a) The CDL and CLP will indicate the class of license, any endorsements, and any restrictions for that individual. The CDL is valid for the operation of a non-CMV including a motorcycle with the appropriate motorcycle endorsement on the license.
 - b) A Colorado CDL may be issued upon surrender of a valid CDL from another state without additional testing except that an applicant must test for a hazardous material endorsement and school bus endorsement.
 - c) An applicant with an out-of-state CLP cannot transfer that CLP to Colorado but must apply for a Colorado CLP and take all applicable CDL knowledge tests (49 CFR).
- (2) Each applicant applying is required to make one of the following applicable self-certifications for the type of commercial driving the individual intends to do (49 CFR):
- **Non-excepted interstate.**
 - **Excepted interstate.**
 - **Non-excepted intrastate.**

- **Excepted intrastate.**

- (3) Each applicant must meet the medical and physical qualifications under 49 CFR. Each applicant must submit their medical examiner's certificate and, if applicable, any federal variance or state medical waiver or Skills Performance Evaluation to a Driver License Office (49 CFR).
- (4) Each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division of the Department of Higher Education must affirm on an affidavit provided by the Department, to the testing unit that the initial applicant successfully passed training on the recognition, prevention, and reporting of human trafficking prior to taking the CDL skills test.

E. ENDORSEMENTS

- (1) T-Double/Triple Trailers: Required to operate a CMV used for drawing two or more vehicles or trailers with a GCWR that is 26,001 lbs. or more and combined GVWR of the vehicles being towed is in excess of 10,000 lbs.
- (2) P-Passenger: Required to operate a vehicle designed by the manufacturer to transport 16 or more passengers, including the driver.
- (3) N-Tank Vehicles: Required to operate a vehicle that hauls liquid or liquid gas in a permanently mounted cargo tank rated at 119 gallons or more or a portable tank rated at 1,000 gallons or more.
- (4) H-Hazardous Materials: Required to transport materials that require the motor vehicle to display a placard pursuant to the hazardous materials regulations.
- (5) S-School Buses: Required to operate a school bus as defined in section 42-1-102(88), C.R.S.
- (6) X-Combination Tank/Hazmat: Required to operate vehicles that meet the definition of (3) and (4) above.

F. RESTRICTIONS

- (1) Intrastate: The letter "K" is added to the CDL of a driver between the ages of 18 through 20, to an individual who has been issued a valid medical waiver from the Colorado State Patrol (8 CCR 1507-1)* or who self- certifies to excepted or not excepted intrastate driving (49 CFR). Under this CDL restriction, the driver must not:
 - a) Operate a CMV outside Colorado state boundaries; or
 - b) Transport interstate commerce as defined in 49 CFR.

*The waiver from Colorado State Patrol is valid only while the driver is transporting commodities OTHER THAN bulk hazardous materials, as defined in 49 CFR or commodities with a hazard class identified in 49 CFR, or commodities subject to the "Poison by Inhalation Hazard" shipping description in 49 CFR.

- (2) Air brake: The letter "L" is added to the CDL/CLP of an individual restricted from operating vehicles equipped with air brakes.
 - a) An individual may apply for removal of the "L" restriction after having successfully completed the air brake knowledge test and the CDL Skills Test in a vehicle equipped with air brakes that is representative of the CDL vehicle class.

- b) When taking the CDL Skills Test in a vehicle equipped with air brakes, the applicant must have in his/her immediate possession a CLP without the "L" restriction.
- (3) Transmission: The letter "E" is added to the CDL of an individual restricted from operating vehicles equipped with a standard transmission.
 - a) An individual may apply for removal of the "E" restriction after having successfully completed the CDL Skills Test in a vehicle equipped with a standard transmission that is representative of the CDL vehicle class.
 - b) When taking the CDL Skills Test in a vehicle equipped with a standard transmission, the applicant must have in his/her immediate possession a CLP without the "E" restriction.
- (4) Class A Bus: The letter "M" is added to the CDL of an individual restricted from operating a Class A Passenger vehicle (49 CFR).
 - a) An individual may apply for removal of the "M" restriction after having successfully completed the CDL Skills Test in a Class A Passenger vehicle.
 - b) Before taking the CDL Skills Test in a Class A Passenger vehicle, the applicant must have in his/her immediate possession a CLP without the "M" restriction.
- (5) Class B Bus: The letter "N" is added to the CDL of an individual restricted from operating a Class B Passenger vehicle (49 CFR).
 - a) An individual may apply for removal of the "N" restriction after having successfully completed the CDL Skills Test in a Class B Passenger vehicle.
 - b) Before taking the CDL Skills Test in a Class B Passenger vehicle, the applicant must have in his/her immediate possession a CLP without the "N" restriction.
- (6) No Tractor-Trailer: The letter "O" is added to the CDL of an individual restricted from operating a vehicle equipped with a 5th wheel type coupling system (49 CFR).
 - a) An individual may apply for removal of the "O" restriction after having completed the CDL Skills Test in a tractor/semi-trailer combination vehicle equipped with a 5th wheel type coupling system.
 - b) When taking the CDL Skills Test in a tractor/semi-trailer combination vehicle equipped with a 5th wheel type coupling system, the applicant must have in his/her immediate possession a CLP without the "O" restriction.
- (7) No Passengers: The letter "P" is added to the CLP of an individual restricted from operating a Passenger vehicle with Passengers.
 - a) The "P" restriction is removed by successfully completing the CDL Skills Test in a Passenger vehicle.
- (8) No Cargo in a Tank Vehicle: The letter "X" is added to the CLP of an individual restricted from operating a Tank vehicle containing liquid or gas.
 - a) An individual may apply to have the "X" restriction removed after having successfully completed the CDL Skills Test.

- (9) Medical, Variance/Skills Performance Evaluation: The letter "V" will be added to any CLP or CDL for individuals who have been issued a federal medical variance (49 CFR).
- (10) Air brake: The letter "Z" is added to the CDL/CLP of an individual restricted from operating vehicles equipped with full air brakes.
 - a) The "Z" restriction is removed by successfully completing the air brake knowledge test and the CDL Skills Test in a vehicle equipped with air brakes that is representative of the CDL vehicle class.
 - b) When taking the CDL Skills Test in a vehicle equipped with air brakes, the applicant must have in his/her immediate possession a CLP without the "Z" restriction.

G. EXEMPTIONS

- (1) FMCSR 49 CFR Applicability: Authorizes the state to grant certain groups exceptions from the CDL requirements.
 - a) FMCSR – 49 CFR: Exception for individuals who operate CMVs for military purposes.
 - b) FMCSR – 49 CFR: Exception for operators of farm vehicles, as defined at section 42-2-402(4)(b)(III), C.R.S. and firefighters and other persons who operate CMVs that are necessary to the preservation of life or property, or the execution of emergency governmental functions, or that are equipped with audible and visual signals and are not subject to normal traffic regulation.
 - c) FMCSR – 49 CFR: Exception for drivers employed by an eligible unit of local government, operating a commercial motor vehicle within the boundaries of that unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, if the properly licensed employee who ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle or if the employing governmental entity determines that a snow or ice emergency exists that requires additional assistance.
 - d) FMCSR – 49 CFR: Restricted CDL for certain drivers in farm-related service industries.
- (2) FMCSR 49 CFR specifies the exceptions to the physical qualifications for individuals engaged in custom harvesting operations.

H. ENTITY ELIGIBLE TO APPLY FOR A CDL TESTING UNIT LICENSE

- (1) The Department may authorize a testing unit to administer the CDL Skills Test on behalf of the Department if such training and testing is equal to the training and testing of the Department.
- (2) A CDL Testing Unit must enter into a written contract with the Department and agree to:
 - a) Maintain an established place of business in Colorado with a vehicle fleet of no less than three CMVs owned, leased or registered to the testing unit, the business owner, or an employee of the business;
 - b) Maintain an adult education occupational business license with the Division of Private Occupational Schools, a division of the Colorado Department of Higher Education; or
 - c) Be a government agency, public school district, private or parochial school, or other type of pre- primary, primary, or secondary school transporting students from home to school or from school to home.

I. CDL TESTING UNIT REQUIREMENTS

- (1) An entity must apply for and receive a CDL testing unit license from the Department in order to administer CDL Skills Tests. The CDL testing unit and each driving tester license expires on June 30th of each year. The licenses for both the testing unit and driving tester(s) must be displayed in the place of business.
 - a) Testing unit and driving tester license fees are waived for non-commercial testing units and driving testers that only provide public transportation, and that do not test outside of their unit.
 - b) Public transportation entities that test outside of their unit or that do not provide public transportation only, must submit the appropriate fees.
 - c) If a license is not renewed on or before June 30th, the initial fees will apply. Testing unit and driving tester license(s) may be suspended or inactivated until appropriate fees and documentation are submitted.
 - d) Licenses can be renewed up to 60 days prior to June 30th of each year.
- (2) The testing unit is not permitted to guarantee issuance of a Commercial Driver's License or to suggest that training will guarantee issuance of a Commercial Driver's License.
- (3) Testing units must only test if they have a current testing unit license issued by the Department.
- (4) Testing units must ensure that each driving tester has a valid tester license issued by the Department when he or she administers a CDL Skills Test.
- (5) The testing unit must notify the Department in writing within 3 business days of the termination or departure from the testing unit of any driving tester.
- (6) A testing unit's place of business must be a separate establishment and may not be part of a home. The unit's physical address must not be a post office box.
- (7) The testing unit must have written permission from the landowner to administer the CDL vehicle basic control skills exercises on areas not owned by the testing unit. This written permission must be submitted to the Department for approval prior to testing.
- (8) The testing unit must maintain at least one employee who is licensed as a CDL driving tester.
- (9) The testing unit must ensure that the unit's driving tester(s) follow the Department's standards for administering the CDL Skills Test.
- (10) The testing unit must ensure that the unit's driving tester(s) complete all CDL Third Party Testing forms correctly.
- (11) The testing unit must ensure that the unit's driving tester(s) administer the CDL Skills Test to applicants in a vehicle equal to or lower than, the class and/or endorsement, and/or restriction on applicant's CDL instruction permit or CDL.
- (12) Once a new driving tester candidate has passed the required 5 day new CDL third party tester's training course , the testing unit must ensure that within thirty (30) days the new tester candidate:
 - a) Applies for his/her Third Party Testers license;

- b) Administers two (2) drive tests while accompanied by a licensed driving tester who shall monitor the test and compare pass-fail results with those of the new driving tester candidate; and
 - c) Completes an Application for the fingerprint/background check.
- (13) The testing unit is responsible for ensuring that driving testers attend all mandated training provided by the CDL Compliance Unit. Failure of driving testers to attend scheduled training may result in the suspension of testing privileges for the testing unit and the tester.
- (14) The testing unit must schedule all tests utilizing CSTIMS. The testing unit or driving tester must notify the CDL Compliance Unit of all canceled tests via CSTIMS as soon as the testing unit or driving tester is aware of the cancellation. The testing unit or driving tester must notify the Department of all tests scheduled or schedule changes via CSTIMS at least three (3) days in advance of the test. Tests not administered due to weather conditions or a vehicle failure may be rescheduled with approval from a CDL Compliance Unit.
 - a) The testing unit is not permitted to schedule an applicant more than once within any three (3) day period.
 - b) Testing units must identify the applicant in Scheduled Comments in CSTIMS as Public, Employee, or Student.
 - c) The test must begin within 15 minutes before and no later than 15 minutes after its scheduled time. The test begins when the driving tester reads the Vehicle Inspection Overview to the applicant.
- (15) The testing unit must ensure that:
 - a) The driving tester enters into CSTIMS all test results immediately after the completion of the test;
 - b) The test results entered into CSTIMS match the Class, Endorsements, and Restrictions of the vehicle in which the applicant has successfully completed the CDL Skills Test; and
 - c) The driving tester uploads the correct score forms into CSTIMS.
 - d) The driving tester obtains a copy of the completed affidavit reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, and that the driving tester uploads a copy of the completed affidavit into CSTIMS.
- (16) The testing unit must administer CDL Skills Tests only on Department approved testing areas and routes.
- (17) The testing unit must ensure all three portions of the CDL Skills Test are conducted during daylight.
- (18) The testing unit must ensure the vehicle being used for testing does not have any labels or markings that indicate which components are to be inspected by an applicant during the Vehicle Inspection portion of the CDL Skills Test. Manufacturer labels and/or markings are permitted.

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- (19) The testing unit must enter into an agreement with the Department containing, at a minimum, provisions that:
- a) allow the FMCSA, the Department, and their representatives to conduct random inspections and audits without prior notice;
 - b) allow the Department to conduct on-site inspections at least annually;
 - c) require all driving testers to meet the same training and qualifications as state examiners, to the extent necessary to conduct CDL Skills Tests in compliance with these rules and regulations;
 - d) at least annually, allow the Department at its discretion to take the tests administered by the testing unit as if the Department employee was an applicant, or test an applicant who was tested by the testing unit to compare pass-fail results; and
 - e) reserve to the Department the right to take prompt and appropriate action against any testing unit or driving tester when such driving tester fails to comply with Department or federal standards or any other provisions in the contract or the rules and regulations.
- (20) A driving tester and a testing unit shall charge fees only in accordance with section 42-2-406, C.R.S. and this rule. A driving tester and a testing unit shall only charge for tests administered.
- a) Except as otherwise provided in paragraph (b) of this subsection (20), the maximum total fee, including but not limited to any administrative fee, for administering a CDL Skills Test or retest to an applicant is two hundred seventy-five dollars (\$275.00).
 - b) The maximum total fee, including but not limited to any administrative fee, for administering a CDL Skills Test or retest to an employee or volunteer of a nonprofit organization that provides specialized transportation services for the elderly and for persons with disabilities, to any individual employed by a school district, or to any individual employed by a board of cooperative services is one hundred twenty-five dollars (\$125.00).
- (21) The testing unit must make all CDL testing records available for inspection during normal business hours.
- (22) The testing unit must hold the state harmless from liability resulting from the administration of the CDL program.
- (23) The testing unit must make annual application for renewal of the unit's testing license and individual driving tester license(s) before the license expires on June 30th of each year.

J. DRIVING TESTER REQUIREMENTS

- (1) The driving tester must possess a valid USDOT medical card and a valid CDL with the appropriate class and endorsement(s) to operate the vehicle(s) in which the CDL Skills Test is administered.
- (2) The driving tester must conduct the full CDL Skills Test in accordance with Department procedures and must use the Colorado CDL Skill Test Score Form.
- (3) The driving tester must complete all CDL Third Party Testing forms correctly.
- (4) The driving tester must administer all portions of the CDL Skills Test in English.

- (5) Interpreters are not allowed for any portion of the CDL Skills Test.
- (6) The driving tester agrees to hold the State harmless from any liability arising from or in connection with a CDL Skills Test.
- (7) The driving tester must only test if the driving tester has a valid tester license issued by the Department.
- (8) The driving tester must test in the CDL class of vehicle or endorsement(s) group authorized by the Department.
- (9) Prior to administering the CDL Skills Test, the driving tester must ensure that the driver has in his/her immediate possession, a valid USDOT medical card, and a valid CLP for operating the class and endorsement(s), and/or restriction(s) of the vehicle being used for testing.
 - a) The driving tester must ensure that the instruction permit has been held by the applicant for at least fourteen (14) days prior to taking the skills test.
 - b) The driving tester must also ensure the applicant has in his/her immediate possession a valid Driver's License and must compare the photo on the license to the applicant to verify identity.
 - c) The driving tester must obtain a copy of the completed affidavit reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education.
- (10) The driving tester must administer the CDL Skills Test to applicants in a vehicle equal to or lower in class and/or endorsement(s), and/or restriction(s) than the applicant has on his or her CLP.
- (11) The driving tester must administer the CDL Skills Test only on Department approved testing areas and routes.
- (12) The driving tester must administer all three portions of the CDL Skills Test during daylight.
- (13) The driving tester must ensure that the vehicle in which the CDL Skills Test will be administered is in proper working and mechanical order.
- (14) The vehicle inspection, the basic vehicle control skills, and the on-road driving test must be administered by the same driving tester in sequential order with no more than a 15-minute break between each portion of the CDL Skills Test. CDL Skills Test must be scheduled to avoid a lunch break.
- (15) The Department may issue a driving tester license to a driving tester candidate upon the successful completion of the following requirements:
 - a) A testing unit must submit an application requesting that the driving tester candidate be granted a driving tester license;
 - b) The driving tester candidate must be an employee of the testing unit submitting the application;
 - c) The driving tester candidate must successfully complete the 5 day new CDL third party tester's training course;

- d) Within 30 days following the date the driving tester candidate completes the 5 day new CDL third party tester's training course, the driving tester candidate must:
 - 1. Administer two (2) drive tests while accompanied by a licensed driving tester who shall monitor the test and compare pass-fail results with those of the new driving tester candidate; and
 - 2. Complete the application for the fingerprint/background check.
- e) All licensing fees must be received by the Department.
- (16) The driving tester must inform the applicant that he/she may be randomly selected for a retest as mandated by 49 CFR.
- (17) The driving tester may administer CDL Skills Test as an employee of, and on behalf of, the licensed testing unit. The driving tester may administer tests for more than one unit. However the driving tester must be licensed under each unit to conduct testing on its behalf. The driving tester must keep all CDL records separate for each testing unit.
- (18) If an applicant fails any portion(s) of the CDL Skills Test, he or she must return on a different day and perform all three (3) portions of the CDL Skills Test over again.
- (19) In order to qualify for renewal, the driving tester must administer a minimum of ten (10) CDL Skills Tests with different applicants within the twelve-month period preceding the application for renewal from the Department.
- (20) The driving tester must:
 - a) Enter into CSTIMS all test results immediately after the completion of the test;
 - b) Ensure that the test results entered into CSTIMS match the Class, Endorsements, and Restrictions of vehicle in which the applicant has successfully completed the CDL Skills Test; and
 - c) Upload the correct score forms into CSTIMS.
 - d) Upload into CSTIMS the completed affidavit reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education.
- (21) Upon leaving a testing unit, the driving tester's license may be transferred to another testing unit within three (3) months. If the driving tester is not employed as a driving tester at a licensed testing unit within three (3) months, the tester will be required to attend a new tester training class in order to be licensed by the Department. All training and license fees will apply and are the responsibility of the tester.
- (22) The driving tester cannot administer the CDL Skills Test to an applicant with whom he/she has conducted in- vehicle skills training.

K. COURSE AND ROUTE REQUIREMENTS

- (1) A testing unit must have a paved area for the CDL vehicle inspection and the basic control skills exercises that contain:

- a) Solid painted lines and traffic cones marking the testing boundaries in accordance with Department standards.
 - (i) Traffic cones used to mark the testing boundaries must be a minimum of twelve inches in height, and the same size traffic cones must be used for each exercise. Traffic cones must be replaced when they no longer retain their original shape and color.
- b) Boundary lines and cones clearly visible in the basic control skill exercise testing area.
 - (i) The testing area boundaries must be cleared of snow, debris, and vehicles that would obstruct the applicant's view during the basic control skill exercise.
 - (ii) Testing on dirt, sand, or gravel is not allowed.
- (2) The testing unit must request and receive approval from the Department for any change(s) to the approved road test route prior to administering a CDL road test.

L. RIGHTS

- (1) The driving tester or testing unit may refuse to test an applicant. The driving tester or testing unit contact person must notify the CDL Compliance Unit if an applicant is refused a test and must refer that driver to the CDL Compliance Unit.
- (2) Government driving testers who want to test outside of their governmental testing unit may make a written request to the CDL Compliance Unit, and must receive approval from the CDL Compliance Unit prior to administering CDL Skills Tests outside of their governmental testing unit.

M. RECORDING AND AUDITING REQUIREMENTS

- (1) The testing unit must maintain all pass/fail records for three years. These must include the CDL Skills Testing records for each applicant tested, the dates of the testing, the applicant's identification information, a copy of the completed affidavit reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, the vehicle information and the name and state assigned driving tester number for the driving tester who administered the test. If a testing unit is no longer licensed, the unit must return all testing records to the Department within 30 days.
 - a) After three years, testing units may destroy all pass/fail records (shred, burn).
- (2) A testing unit must enter all (pass and fail) CDL Skills Test results into CSTIMS immediately after the test including the upload of the score form and, for each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, a copy of the completed affidavit reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking.
- (3) During CDL compliance audits and/or inspections, driving testers must cooperate with the Department and/or FMCSA by allowing access to testing areas and routes, furnishing CDL Skills Testing records and results, and providing other items pertinent to the mandated audit and/or inspection. The driving tester must surrender testing records upon request. The driving tester may make copies and retain copies of such records.

- (4) If the testing unit provided the vehicle for the CDL Skills Test, the testing unit will furnish the vehicle for an applicant driver selected for a retest. No fees, including any vehicle rental fees required for testing, will be collected for this mandatory evaluation. The Department is not liable during retests for any damage, injury, or expense incurred.
- (5) If the applicant tested in his/her own vehicle, the applicant will supply the vehicle for any CDL Skills Retest.

N. BOND

- (1) A testing unit that is not an agency of government, or a Colorado school district, must maintain a bond in the amount of \$20,000.00 with the Department pursuant 49 CFR. A surety company authorized to do business within the State of Colorado must execute the bond.
 - a) The bond must be for the use and benefit of the Department in the event of a monetary loss suffered by the Department that falls within the limitations of the bond, attributable to the willful, intentional, or negligent conduct of the testing unit or its agent(s) or employee(s).
 - b) If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the testing unit cannot test outside their unit.
 - c) The Department must be named on the bond as the beneficiary or the bond must be held in the name of the Department.
- (2) A testing unit that is an agency of government, or any Colorado school district, that will administer CDL driving tests outside of their unit, must maintain a bond in the amount of \$5,000.00 with the Department. A surety company authorized to do business within the State of Colorado must execute the bond.
 - a) The bond must be for the use and benefit of the Department in the event of a monetary loss within the limitations of the bond, attributable to the willful, intentional or negligent conduct of the testing unit or its agent(s) or employee(s).
 - b) If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the testing unit cannot test outside their unit.
 - c) The Department must be named on the bond as the beneficiary or the bond must be held in the name of the Department.

O. REVOCATION, CANCELLATION, OR SUSPENSION OF TESTING UNITS AND TESTERS

- (1) The license of a testing unit or driving tester may be suspended or revoked for willful or negligent actions that may include but are not limited to any of the following:
 - a) Misrepresentations on the application to be a testing unit or a driving tester;
 - b) Improper testing and/or certification of an applicant driver who has applied for a CDL;
 - c) Falsification of test documents or results;
 - d) Violations of CDL rules for testing units or driving testers;
 - e) Failure to employ a minimum of at least one licensed CDL driving tester;

- f) Failure to comply or cooperate in a CDL Compliance audit and record review;
 - g) Violations of the contract terms and conditions;
 - h) For any other violation of this rule or applicable state statute or federal regulation.
- (2) A testing unit or driving tester that is suspended must not perform any duties related to CDL Third Party Testing.
- (3) Summary Suspension: Where the Department has objective and reasonable grounds to believe and finds that a testing unit or driving tester has been guilty of a deliberate and willful violation or that the public health, safety, or welfare imperatively requires emergency action and incorporates the findings in its order, it may summarily suspend the license pending proceedings for suspension or revocation which will be promptly instituted and determined. Testing is not permitted while the license is suspended.
- (4) Appeal Process: Any person aggrieved by the denial of issuance, denial of renewal, suspension, or revocation of a testing unit license or driving tester license is entitled to a hearing pursuant to section 42-2- 407(7), C.R.S. Except as otherwise provided in paragraph (3) of this subsection O, the request for hearing must be submitted in writing and appropriately labeled, such as "CDL Cease Testing Appeal," to the Department of Revenue, Hearings Division, 1881 Pierce Street, Room 106, Lakewood, Colorado, 80214. Subsequent appeal may be had as provided by law.
- (5) Material incorporated by reference in this rule does not include later amendments to or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Division of Motor Vehicles, Driver License Section of the Department of Revenue, 1881 Pierce Street, Room 128, Lakewood, Colorado, 80214, 303-205-5600, and copies of the materials may be examined at any state publication depository library.

RULE 8 RULES AND REGULATIONS FOR THE CLASS R DRIVER TESTING AND EDUCATION PROGRAM

PURPOSE

The Department of Revenue, Division of Motor Vehicles, Driver Testing and Education unit developed rules, regulations and certification requirements to establish the working and operational instructions for the conduct of Certified Commercial Driving Schools, Basic Operator Skills Testing Organizations, and Certified Employees.

The rules, regulations and requirements will furnish guidelines as necessary for Certified Commercial Driving Schools to remain current with laws and new programs promoting the safety and welfare of the citizens of Colorado and to aid in the detection of fraudulent activities.

STATUTORY AUTHORITY

Sections: 24-4-103, 104 and 105; 42-1-102 (43.5); 42-1-204; 42-1-211; 42-1-222; 42-2-105.5; 42-2-106; 42-2-111; 42-2-601, 602, 603, and 604, C.R.S.

(100) DEFINITIONS

- a) **Basic Operator Skills Test (BOST):** The Basic Operator Skills Drive Test (BOSD) or the Basic Operator Skills Written Knowledge Test (BOSW) or both.

- b) **Basic Operator Skills Tester (BOST Tester):** An individual employed by a Certified Commercial Driving School who has successfully passed all training required by the Department and is certified to administer the BOSD and/or the BOSW. For purposes of this rule, “administer” includes proctoring and grading.
- c) **Basic Operator Skills Testing Organization (BOSTO):** A Certified Commercial Driving School that is also certified by the Department to conduct the BOST for a permit or driver license.
- d) **Behind-The-Wheel (BTW):** Actual instructional driving time during which the novice driver operates a Class R vehicle (e.g., off-street, on-street, on-highway) and is guided by an instructor in the front passenger seat. Observation is not included in behind-the-wheel time.
- e) **Certified Commercial Driving School (CCDS):** Any business or any person certified by the Department to provide or offer to provide Department approved training or examinations that are statutorily-mandated for a driver license or instruction permit.
- f) **Certified Employee:** An individual employed by a CCDS and certified by the Department to conduct training, examinations, or access DRIVES.
- g) **Class R Vehicle:** Any motor vehicle with a Gross Vehicle Weight Rating of less than 26,001 lbs. as a single unit or in combination, designed to carry 15 or fewer passengers, including the driver, and does not carry hazardous material.
- h) **Clock Hour:** Full hour consisting of sixty (60) minutes.
- i) **Curriculum:** A course of instruction approved by the Department that meets the minimum requirements to obtain a driving permit.
- j) **Department:** The Department of Revenue.
- k) **Driver License Written Examination (Examination):** means the DR 2252 (English versions 1-4) or DR 2273 (Spanish versions 1-4) Driver’s License Written Examination or electronic equivalent.
- l) **DRIVES:** Driver License Record Identification Vehicle Enterprise Solution as defined in Section 42-1- 211, C.R.S.
- m) **Driver Testing and Education (DTE):** unit within the Driver License Section of the Department of Revenue, Division of Motor Vehicles.
- n) **Expanded Driver Awareness Program / Driver Awareness Program (EDAP/DAP):** A four-hour pre-qualification driver awareness program approved by the Department. Section 42-2-106(1)(d)(I), C.R.S.
- o) **Fiscal Year:** Means July 1st through June 30th.
- p) **Instruction Permit:** A document issued by the Department to allow an individual to drive a motorcycle or Class R vehicle, as provided for in section 42-2-106, C.R.S., prior to receiving a Colorado driver license.
- q) **Revocation of Testing Certification:** The permanent withdrawal of a BOST Tester's or a BOSTO's testing privileges by the Department.
- r) **Shadow Drive:** Additional practice in drive testing before certification or re-certification.

- s) **Suspension of Testing Certification:** An action taken by the Department against a BOST Tester or a BOSTO whereby testing privileges are withdrawn for a specified period of time.
- t) **Service Animals:** An animal that is trained to do work or perform tasks for people with disabilities. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals.
- u) **Third Party Exam Completion Statement (TPE):** Form generated by DRIVES as a receipt to the applicant that the Certified Employee has entered exam information into DRIVES.
- v) **Transaction Completion Statement (TCS):** Form generated by DRIVES to indicate data entered into DRIVES for each exam submitted.

(150) APPLICABILITY

This Rule 8 applies only to BOSTOs, CCDSs, and their Certified Employees that offer statutorily-mandated examinations or statutorily-mandated training for a driver license or instruction permit.

(200) GENERAL REQUIREMENTS FOR COMMERCIAL DRIVING SCHOOL CERTIFICATION

- a) In order for a Commercial Driving School to be certified by the Department, the school must:
 - 1. Enter into a written contract with the Department; and
 - 2. Offer a driver education course of instruction approved by the Department.
- b) An application for certification must be submitted on forms provided by the Department and must be typed and indicate on the form the type of certification being requested. Incomplete applications will not be accepted.
- c) A copy(s) of the CCDS's state, county, or municipal business license(s) or waivers, registration with the Secretary of State, along with any other documentation required by the county or city, are required to be submitted with an application.
- d) A CCDS's place of business must be a separate establishment and not part of a residence.
 - 1. All CCDSs are required to have a mailing address that is not a post office box; and
 - 2. A CCDS must request and receive written approval from the Department for record keeping in a residential home office.
- e) Each new owner/manager must complete records management training offered by the Department prior to certification.
- f) A CCDS must have proof of current and valid general liability insurance, vehicle insurance and registration, surety bond, and worker's compensation insurance in the form of an insurance certificate, if required by the Workers' Compensation Act [Sections 8-40-101, et. seq. C.R.S.], on file with the Department at all times.
 - 1. The Department must be listed on the general liability insurance policy and the vehicle insurance policy as a secondary insured.
 - 2. No fewer than 30 days before the current insurance coverage expires, the CCDS must provide an updated insurance certificate to the Department.

3. The CCDS must notify the Department immediately upon cancellation of an insurance policy.
 4. Failure to maintain current insurance coverage is grounds for suspension, and such suspension may be in effect until a current insurance certificate is provided to the Department.
- g) A CCDS must provide an inventory of all Class R vehicles used for testing/training, and proof of second brake installation to the Department. Changes to vehicle inventory must be reported, in writing, to the Department within 30 days of the change.
- h) Bond: A CCDS must maintain a surety bond, executed by a surety company authorized to do business in Colorado, in the amount of \$10,000 with the Department.
1. The bond must be for the use and benefit of the Department in the event of a monetary loss within the limitations of the bond attributable to the willful, intentional, or negligent conduct of the CCDS, or its agents or employees;
 2. If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the CCDS's certification may be suspended. The suspension may continue until satisfactory steps are taken to restore the original amount of the bond; and
 3. The Department must be named as the beneficiary on the bond.
- i) Physical facilities: A CCDS requesting certification by the Department must have a place of business with facilities to conduct classes and to maintain all required files and records:
1. All forms issued by the Department must be secured in limited access areas;
 2. A CCDS must obtain written permission from property owners, on a DR 2060 Classroom Consent form prior to conducting driver education training on the property. The completed DR 2060 Classroom Consent must be submitted to the Department prior to the commencement of training on the property;
 3. Each CCDS must post its hours of operation in a conspicuous place and be available to the public during those hours; and
 4. If a CCDS uses approved public facilities as a place of business, then Certified Employees for the CCDS must have a copy of its CCDS certification and DR 2060 Classroom Consent in their possession.
- j) A CCDS must provide to all Certified Employees a current version of this Rule 8 and must monitor and ensure their Certified Employees follow all applicable rules and regulations and Colorado Revised Statutes.
- k) A CCDS must notify the Department in writing within three days of any change in the location of the place of business, directors, owners, or managers of any CCDS. Certifications are not transferable.
- l) If a CCDS is sold or transferred to a new owner, then the new owner must file a new application for certification, sign a new contract with the Department and be approved by the Department before beginning operation under the new ownership. Failure to inform the Department of any ownership change is grounds for revocation or suspension of CCDS certification.

(201) CURRICULUM

- a) A CCDS that trains using a simulator, range driving, or homework, cannot use this time towards the six-hours BTW training, but may count up to two hours towards classroom hours.
- b) A CCDS must offer a 30-hour driver education curriculum approved by the Department, except that a CCDS that provides only EDAP/DAP training need not offer such 30-hour course, but must meet the requirements in section 303 of this rule.
- c) When a curriculum is submitted for approval, the curriculum must include a lesson plan with an instructor guide, course outline, and course content (including simulator), all in the format required.
- d) A CCDS may appeal the disapproval of its curriculum by filing a written appeal with the Department's Hearings Division within 60 calendar days after the date of the notice of disapproval.
- e) A CCDS must teach the approved curriculum, including the required hours, and cannot change the curriculum without resubmission and re-approval.
- f) Driver education courses must be equal to or exceed the requirements for hours of instruction (excluding meal times/breaks) and course content as set forth in the Department's application form for CCDS certification.
- g) The curriculum requirements for a driver education course, EDAP, or BTW training are available on the Department's official website.

(202) CURRICULUM WITHDRAWAL

- a) Approval of a CCDS's curriculum may be withdrawn if the curriculum is not compliant with statute, rule, or regulation.
- b) If a CCDS is notified that approval for its curriculum has been withdrawn, the authority of the CCDS to teach the curriculum may be suspended, or such authority may be summarily suspended and the CCDS must immediately cease instructing and entering information into DRIVES.

(203) CLASSROOM REQUIREMENTS

- a) A classroom must have working audio and video presentation equipment and provide at least one book per student as required by the curriculum.
- b) With the exception of internet and home study, a CCDS must provide a classroom that meets the following requirements:
 - 1. has space to seat all students, containing at least one seat and desk/table for each student, and one program instructor's desk, table, or podium; and
 - 2. has restroom(s) available for student use.
- c) Approval of the classroom by the Department is required prior to scheduling the first class.
- d) Modular units must be inspected and approved in writing by the Department prior to any classes being taught at the unit. Motorized mobile units will not be approved.

- e) CCDS, EDAP, and DAP programs must not be conducted in a home, mobile home, apartment, or living quarters of any kind.

(300) CERTIFIED COMMERCIAL DRIVING SCHOOL OPERATING REQUIREMENTS

- a) A CCDS must comply with applicable Colorado Revised Statutes, Department rules and regulations.
- b) A CCDS must cooperate with an investigation of a complaint against the CCDS or its Certified Employee.
- c) A CCDS may provide information to applicants regarding documentation required by the Department for the issuance of Class R instruction permits, licenses, or identification cards, but should not contact the Department regarding an applicant's driving record except as specifically provided in this rule.
- d) A CCDS must ensure that all Certified Employees of the CCDS:
 - 1. provide to the Department a CBI background check (out of state Internet organizations excluded) and a typed DR 2066 New CCDS Employee Request;
 - 2. do not have a personal driving record showing the accumulation of eight or more points or a suspension or revocation of driving privileges in the preceding three-years;
 - 3. fully and accurately complete testing/training forms prior to entering into DRIVES;
 - 4. do not share or divulge passwords and/or logins;
 - 5. provide a unique email address to acquire access to DRIVES;
 - 6. immediately enter TCSs for individuals that have been tested, regardless of pass or fail;
 - 7. enter TCSs for individuals that have been trained within two business days of completion;
 - 8. contact DTE immediately by phone or email upon entering incorrect information that affects the results of training/testing into DRIVES;
 - 9. do not enter false or inaccurate TCSs; and
 - 10. attach only Department approved DR forms to the TCS.
- e) Entering information that represents that training/testing has been successfully completed, when a student has not successfully completed the testing/training, may result in suspension or revocation of the employee's certification, and the certification of the CCDS employing the Certified Employee may be suspended or revoked.
- f) The Department may deny certification of an individual or revoke certification of a Certified Employee if they have been convicted of a felony or any offense involving moral turpitude. Conviction includes a plea of guilty or nolo contendere or a deferred sentence, provided that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence. In determining whether to deny or revoke a certification, the Department will consider the factors contained in section 24-5-101(4), C.R.S.

- g) A Certified Employee may not have a personal driving record showing the accumulation of eight or more points in the preceding three years. The Department will randomly audit motor vehicle records (MVR) of all Certified Employees. If an employee has accumulated eight or more points within the preceding three years, the employee's certification for BTW and BOSD may be suspended or revoked.
- h) A CCDS must:
 - 1. have a valid organization number on file with the Department;
 - 2. have a corresponding TCS and a supporting DR testing/training form for every entry into DRIVES;
 - 3. submit a new CBI background check (out of state Internet organizations excluded) for each Certified Employee upon renewal;
 - 4. within 10 days of hiring a new employee, submit a typed DR 2066 New CCDS Employee Request form listing the certifications requested (excluding BOSD) for the Certified Employee and the result of the CBI background check;
 - 5. ensure that training/testing forms are fully and accurately completed prior to entering the information into DRIVES;
 - 6. ensure that information is accurately entered into DRIVES by its Certified Employees. Any incorrect information entered into DRIVES that affects the result of training/testing must be reported to the Department immediately;
 - 7. ensure that if a TCS is reversed or entered multiple times, all TCSs are attached to the corresponding supporting documentation;
 - 8. ensure that entries into DRIVES are not made prior to the completion of training/testing;
 - 9. ensure that only the TCS is stapled to the Department approved supporting documentation and that the TPE is provided to the applicant;
 - 10. ensure that training/testing times reported by the CCDS do not overlap with classroom, BTW, and Drive testing;
 - 11. ensure that every entry into DRIVES has a corresponding TCS and its Department approved supporting documentation; and
 - 12. ensure that all testing/training entries into DRIVES are associated with the applicant's Customer Identifier Number or pre-registration confirmation number.
- i) A CCDS must notify the Department of the location of all branch offices. Branch opening notices must include copies of the business license(s). Written notice must be provided to the Department within three business days of opening or closing any branch office, and the notice must include the names of all Certified Employees to be added or deleted from the CCDS's certification and the date the branch office was opened or closed. A branch office is required to meet all classroom and physical facilities requirements applicable to the main facility.
- j) A CCDS must maintain on file with the Department current physical and mailing addresses, contact phone numbers, and the name of one contact person who is an employee or principal of the CCDS.

- k) The CCDS must ensure that nothing marks or covers the TCS barcode, and ensure that the barcode is readable by a barcode scanner.
- l) A CCDS must notify the Department in writing within three business days of locking an employee out of DRIVES and the date that a Certified Employee is no longer employed by the CCDS.
- m) A CCDS must ensure that an applicant's permit is validated in DRIVES before any BTW or BOSD training/testing session.
- n) Home Study curriculums must:
 - 1. meet the Departments minimum 30-hour curriculum requirements in section (201);
 - 2. provide, in person or online, a final test that is administered prior to providing a TCS. Test questions must come from a pool of questions that are scrambled each time a student takes a test or quiz;
 - 3. if the provider's main facility is out-of-state, maintain a branch office in Colorado containing student files and copies of TCSs with the DR 2052 Student Attendance Record for a 30-Hour Home Study Program form;
 - 4. provide a TPE to each student upon successful completion of the course; and
 - 5. not provide a TPE to a student unless the student receives a correct score of 80% or higher on the final test.

(301) BEHIND-THE-WHEEL TRAINING

- a) Class R vehicles used by a CCDS for BTW training must:
 - 1. be equipped as required in section 42-2-602, C.R.S.;
 - 2. be registered and insured as required in article 3 of title 42 and article 4 of title 10;
 - 3. be available for inspection and audit and, if found to be out of compliance with requirements, the vehicle cannot be used for BTW until such time as requirements are met; and
 - 4. be available for inspection by the Department prior to certification of a CCDS, or if obtained after certification, be available for inspection prior to use.
- b) All BTW lessons must be in vehicles owned/leased by the CCDS. BTW training must not be conducted in a student's or instructor's private vehicle.
- c) Appointment times must not be used as actual start and finish times for BTW training. BTW training must be recorded on a DR 2070 Student Drive Time Log, which must be attached to the BTW TCS.
- d) For a CCDS to become certified to teach BTW, a CCDS must submit a BTW curriculum in a lesson plan format to the Department for approval.

(302) CERTIFIED COMMERCIAL DRIVING SCHOOLS OFFERING INTERNET PROGRAMS

- a) CCDSs offering internet programs must use the name under which they are registered with the Colorado Secretary of State in any advertising in Colorado.

- b) The curriculum of CCDSs offering internet programs must equal or exceed the current minimum standards of the Department and be approved by the Department prior to being sold in the State of Colorado.
- c) All CCDSs offering only internet programs must enter into a contract with the Department and be certified as a CCDS, and are not eligible to be certified as a BOSTO or a BOST Tester.
- d) All CCDSs offering internet programs must maintain an office in Colorado containing student files available for audits. Copies of TCSs must be stapled in the upper left corner to an attendance record showing at least 30 hours of participation, all quiz and test scores, and the name and date of birth of the student. The form of the attendance record must be approved by the Department prior to use and must be maintained with the student files.
- e) If a CCDS contracts with another CCDS to sell the other CCDS's online product, then the selling CCDS must submit a copy of the contract to the Department within 10 days of the date on which the contract was fully executed.
- f) Each CCDS must provide the DTE manager and auditor a user name and password that will allow random audits of student records, test scores, curriculum, and security protocols.
- g) All internet material must contain an explanation of current Colorado laws including:
 - 1. minor permit issuance;
 - 2. BTW requirements; and
 - 3. requirements for licensure.
- h) Internet programs will be monitored to ensure applicants had the opportunity to review the curriculum for the required number of hours prior to issuance of a TPE.
- i) Each internet chapter/section must have a question embedded in it that does not allow progression if a student does not correctly answer the embedded question.
- j) After two failed attempts to pass a test/quiz, students must review previous material.
- k) A final test must be administered prior to entering a TCS. Test questions must come from a pool of questions that are scrambled each time a student takes a test or quiz.
- l) Students must be shown the correct answers to each question they missed on tests and quizzes prior to re-testing.
- m) Students must receive a correct score of at least 80% or higher before being allowed to go to the next module/section, or being issued a TPE.

(303) EDAP/DAP PROGRAMS

- a) All entities that teach the EDAP/DAP for the purpose of qualifying students for a Colorado minor's instruction permit must be a CCDS and, except as otherwise provided in subsection 201(b) of this rule, meet CCDS curriculum and statutory requirements.
- b) DAP must be approved through the National Safety Council and remain in good standing with the NSC rules, regulations, and teaching standards, and must be provided by a CCDS and meet CCDS curriculum and statutory requirements.

- c) Students must be 15 years and 6 months of age before completing an approved EDAP/DAP.

(304) ADVERTISING

- a) Advertisements and CCDS employees must not state or imply that a CCDS can issue, or guarantee the issuance of, a Colorado driver license or permit.
- b) Advertisements and CCDS employees must not state or imply that a CCDS, or the employee, has influence over the Department in the issuance of a Colorado driver license or permit.
- c) No CCDS, BOST Tester, BOSTO or CCDS employee or agent is permitted to solicit or advertise on the premises of a Colorado driver license office.
- d) Use of the Colorado State seal/logo by a CCDS is strictly prohibited.
- e) CCDSs must not advertise a business practice that violates any Colorado Revised Statute or rule, or regulation.

(305) CONTRACTS

- a) All contracts for driver education between a CCDS and any individual or entity must contain, at a minimum, the following:
 - 1. CLASSROOM INSTRUCTION: package rate, the available dates or the website where dates can be found, times and length of each lesson, and the total number of hours of instruction;
 - 2. INTERNET OR HOME STUDY: mandated completion date if any, the total cost, and a telephone contact number and the times technical and/or informational help is available;
 - 3. BEHIND-THE-WHEEL LABORATORY: package rate, the length of each lesson, the total number of hours, and the rate for any vehicle charges. Cancellation or rescheduling policies must be included. Contracts must extend for at least 12 months from the date of permit issuance;
- b) All contracts for driver education and testing must contain:
 - 1. A statement that reads: "This agreement constitutes the entire contract between the school and the student, and any verbal assurances or promises not contained herein are not binding on either the school or the student."
 - 2. A statement that reads: "Under this agreement an instructor may not provide behind-the-wheel training to more than two individual students per session."

(400) BOSTO AND BOST CERTIFICATION

- a) A CCDS that is listed as a full-time school (teaches required 30 hours of curriculum and offers six- hours of BTW instruction) with the Department may apply for certification as a BOSTO. Testing must be equal to the training and examination offered by the Department. Section 42-2-111(1) (b), C.R.S.
- b) Before applying for BOSTO certification, a CCDS must issue 25 student classroom TPE Statements and ten six-hour BTW TPE Statements for students under the age of 18.
- c) BOSTO certifications must be renewed annually before the current certification expires.

- d) To renew a BOSTO certification, a CCDS must demonstrate that it has provided 30 hours of classroom training in driver education for at least 50 students and six-hours BTW completion for 25 students under the age of 18 for the preceding Fiscal Year. The Department will not renew the BOSTO written and drive testing privileges of a CCDS until it meets such requirement. A CCDS in a rural area with limited population may apply for a variance.
- e) Owning or operating a CCDS does not confer certification to administer the BOSW or BOSD for the State of Colorado. BOSW or BOSD can only be administered by a CCDS certified as BOSTO by the Department.
- f) Requests for training and certification as a BOST Tester:
 - 1. must be submitted by completing a typed DR 2068 BOST/RST/Continuing Education Training Registration Form;
 - 2. each CCDS employee seeking training and certification as a BOST Tester must:
 - i. be at least 21 years of age; and
 - ii. have a valid Colorado driver license; and
 - A. must not have a personal driving record showing the accumulation of eight or more points or a suspension or revocation of driving privileges in the preceding three-years.
- g) All TCSs must be kept by the CCDS in a secure location and remain under the control of the CCDS.
- h) Upon successful completion of the driving skills tester training course by a Certified Employee, and a CCDS having met all additional company training and Department requirements, the Department may certify a CCDS as a BOSTO and a CCDS's employee as a BOST Tester.
- i) A CCDS must have at least one employee certified as a BOST Tester to maintain BOSTO certification.
- j) In the event the BOSTO certification for a CCDS is not renewed, or is revoked or suspended, all individual BOST Tester certifications for that BOSTO will be cancelled.
- k) A CCDS may request their BOSTO certification or the BOST Tester certification of any employee be canceled by notifying the Department in writing. Cancellation of a certification does not nullify any of the terms of the contract between the CCDS and the Department.
- l) CCDSs must ensure that all their BOST Testers continue to meet the training and qualification standards required to conduct BOST tests. Failure of a tester to attend scheduled training may result in suspension of testing privileges.
- m) CCDSs must ensure that each BOST Tester they employ follows the Department's standards for administering BOSTs.
- n) Written knowledge and driving skill tests administered by a BOST Tester must be equal to the training and examination conducted by the Department. Section 42-2-111(1)(b), C.R.S.
- o) A BOSTO may be suspended from administering a BOSD, BOSW or both.

- p) A BOST Tester may be employed by more than one CCDS certified as a BOSTO. A BOST Tester employed by more than one CCDS certified as a BOSTO will be issued a separate tester number for each CCDS employing the BOST Tester. A BOST Tester certification is valid only while the BOST Tester is employed by the CCDS listed on the certificate.
- q) The Department reserves the right to retest any student/applicant if an audit indicates that the test was not properly administered, or not administered at all.
- r) A BOST Tester must use only their own login and password to access DRIVES.
- s) A BOST Tester must not authorize any person to use his/her login or password.
- t) A BOST Tester must refer the following applicants to a Colorado driver license office:
 - 1. an applicant requesting a required skills test upon completion of a rehabilitation program;
 - 2. an applicant requesting a BOSD after having failed four previous BOSDs;
 - 3. an applicant requesting a DR 2252 (English) or DR 2273 (Spanish) Driver's License Written Examination after four failed attempts;
 - 4. an applicant whose driver license is currently under restraint;
 - 5. an applicant with a valid license requesting a test;
 - 6. an applicant using a one-day permit;
 - 7. an applicant who's permit is not valid;
 - 8. an applicant unable to produce a photo ID; or
 - 9. an applicant with an expired temporary permit.

(401) THE BOSD (Basic Operator Skills Drive Test)

- a) BOSD routes must be approved in writing by the Department prior to certification of a CCDS as a BOSTO. BOST Testers must administer the BOSD only on routes approved by the Department for the BOSTO employing the BOST Tester. BOSTOs must request and receive approval from the Department in writing for any changes to an approved drive route prior to administering a BOSD.
- b) A BOSTO that has multiple physical locations must request approval for each route prior to testing. Testing on an approved test route must begin from an approved teaching location that offers at least 20 hours of BTW per week and a 30-hour curriculum class.
- c) Two approved BOSD routes are required from each approved teaching location.
- d) BOSTOs are required to maintain copies of approved drive routes in their files in the Department approved format.
- e) BOST testers must use all routes on an equal basis. Any testing on a route not previously approved may result in suspension or revocation of the BOSTO and/or BOST Tester's certification.

- f) Using approved testing routes as a “pre-test” or as BTW practice for students may result in suspension or revocation of a BOST Tester’s certification.
- g) Only BOST Testers may administer the BOSD and sign the DR 2732 Basic Operator Driving Skill Test score sheet confirming test completion.
- h) BOST Testers must complete all testing forms accurately.
- i) The BOSTO must ensure that BOST Testers complete all testing forms accurately and ensure information is entered into DRIVES accurately.
- j) A Certified Employee entering test results to produce a TCS constitutes a representation by the Certified Employee that the applicant whose name is on the TCS took the BOSD.
- k) BOSTOs must hold the State harmless from liability resulting from a BOST Tester’s administration of the BOSD.
- l) Prior to administering any BOSD, the BOST Tester administering the test must ensure applicants have a valid driving permit in their immediate possession and the BOST Tester must validate the permit in DRIVES.
- m) A road test is not allowed if an applicant does not meet statutory licensing requirements. Testing an applicant before they meet the statutory requirements and/or postdating a DR 2732 Basic Operator Driving Skill Test score sheet is grounds for suspension or revocation of BOST Tester’s certification.
- n) BOST Testers must verify that any Class R vehicle used for testing:
 - 1. is properly registered and insured. Both the insurance and the registration cards must be in the vehicle and match the vehicle identification numbers; insurance verification can be digital.
 - 2. has both front and rear license plates attached to the outside of the vehicle; or temporary tags must be visible from the back of the vehicle;
 - 3. has passed a safety inspection by the BOST Tester to ensure all necessary equipment is in safe operating order, and that the vehicle meets all applicable Colorado Revised Statutes for operation on a public roadway;
 - 4. is inspected for compliance with this subsection prior to every BOSD, regardless of who owns the vehicle; and
 - 5. is either registered to the BOSTO as a training vehicle for BTW training or a vehicle provided by the applicant.
- o) Prior to administering a BOSD, a Certified Employee must complete the information section of the DR 2732 Basic Operator Driving Skill Test score sheet including the date of the test, the name of the applicant, the vehicle, the organization, the tester information, and the BOST Tester, after the instructions have been read verbatim, fill in the start time on the score sheet. Once the car has been secured at the end of the BOSD, the finish time and applicant’s score must be written on the score sheet, even if the applicant has failed the test. No alterations can be made to the DR 2732 after the BOSD has been completed.
- p) Applicants and BOST Testers are prohibited from smoking/vaping, drinking, or eating during a BOSD. All electronic devices and cell phones must be silenced during the test.

- q) BOST Testers must conduct a full BOSD in accordance with Colorado Revised Statutes, rules, contract, and BOST Standards. All tests must be recorded on DR 2732 Basic Operator Driving Skill Test score sheet provided by the Department.
- r) BOSDs must be done during daylight hours. For purposes of this rule, daylight hours means the period between one-half hour before sunrise and one-half hour after sunset.
- s) After a BOSD is completed, the BOST Tester must immediately critique the applicant's performance on the test, in a location outside of the vehicle. If the applicant is a minor, the critique must be done in the presence of the parent/guardian if the parent/guardian is present.
- t) Upon successful completion of a BOSD, a Certified Employee must immediately enter information into DRIVES and provide the applicant with the TPE. The Certified Employee must staple the TCS to the upper left of the DR 2732 Basic Operator Driving Skill Test score sheet.
- u) BOST Testers must note all failures on an applicant's DR 2732 Basic Operator Driving Skill Test score sheet and ensure all failures are entered into DRIVES immediately after the test is completed.
- v) An applicant under 18 years of age holding an out of state instruction permit may take one BOSD with a BOSTO on the permit if the minor has met the statutory requirements. An applicant 18 years of age or older with an out of state instruction permit cannot be tested by a BOST Tester.
- w) A BOST Tester must not administer more than one complete BOSD per day to any applicant. Giving an applicant more than one BOSD per day may result in suspension of the tester's certification.
- x) No passengers, pets (service dogs excluded), or interpreters may be in a vehicle during BOSD. Occupants in a vehicle during a BOSD are limited to the applicant and the tester, with the following exceptions:
 - 1. A Department representative may be in the vehicle when an audit is being performed for quality assurance purposes; or
 - 2. Another BOST Tester may be in the vehicle for training and evaluation purposes, if prior notification was given to the Department.
- y) The TPE is valid for 180 days from the date of issue.

(402) THE BOSW (Basic Operator Skills Written Knowledge Test)

- a) BOST Testers administering the BOSW must ensure the TPE is issued to the applicant upon completion of the BOSW.
- b) BOST Testers administering the DR 2252 or DR 2273 Driver's License Written Examination:
 - 1. must administer BOSW only at a business location pre-approved by the Department;
 - 2. must ensure that applicants do not access any unauthorized assistance, including but not limited to, written material, cell phones, or electronic devices, or communicate with any unauthorized person while testing;

3. must require applicants to write their first and last name(s), date of birth, and the date of the BOSW in the information box provided on the BOSW, and interpreters, including BOST Testers acting as an interpreter, must write their first and last name(s) and driver license number on the back of the BOSW. The BOSW Tester administering the BOSW must print and sign certifying they have proctored the test;
 4. must require a correct score of 80% or higher to pass;
 5. must grade correctly using the score key when grading a DR 2252 or DR 2273 Driver's License Written Examination;
 6. must use a red pen unless the BOSW is graded electronically;
 7. may provide up to four DR 2252 or DR 2273 Driver's License Written Examinations per applicant in total including written examinations taken at other CCDSs. An applicant may not take more than two tests per day, regardless of whether it is at one location or separate locations. If an applicant fails four DR 2252 or DR 2273s, regardless of when or at which locations the DR 2252 or DR 2273s are completed, all subsequent paper DR 2252 or DR 2273 Driver's License Written Examinations must be taken at a Department driver license office. The four-test limit does not apply to electronically completed BOSWs;
 8. must ensure that if an applicant fails the first BOSW with the BOSTO, then all subsequent BOSWs must be a different versions. If an applicant misses more than 50% of the questions on a first test attempt, the applicant must wait until the next day to test again; and
 9. must ensure every BOSW result is entered into DRIVES immediately regardless of pass or fail upon completion of the BOSW.
- c) Applicants may use an interpreter for the BOSW.
 - d) An interpreter must be at least 16 years old and show an unexpired driver license from any state in the United States.
 - e) The BOST Tester or other interpreter can interpret in the required language and can only interpret the questions and answer choices.
 - f) The BOSW must not be given to any applicant under the age of 14 years and 11 months.
 - g) BOSWs must not be used as "class final exam", "practice" or "pre" tests.
 - h) BOSWs may not be copied outside the physical facilities unless the BOSWs remain under the direct supervision and control of a BOSTO.
 - i) Test results must not be partially or fully entered until after a student has completed the BOSW.
 - j) BOST Testers administering the BOSW must periodically check with the Department to confirm they have the most current version of tests/keys.
 - k) BOSWs must be administered by a BOST Tester with a BOSW certification.
 - l) The BOST Tester whose name, signature and tester number is on the back of the DR 2252 (English) or DR 2273 (Spanish) Driver's License Written Examination must accurately grade the BOSW.

- m) The TPE is valid for 180 days from the date of issue.

(403) BOST TESTER REQUIREMENTS

- a) The Department will not renew the certification of BOST Tester who has not administered a minimum of 24 BOSDs each Fiscal Year.
1. A BOST Tester who does not meet this minimum requirement prior to July 1st may be renewed if he/she successfully completes a one-day continuing education within the first six months of the next Fiscal Year.
 2. A BOST Tester who fails to successfully complete the continuing education within the first six months of the next Fiscal Year must successfully complete a two-day continuing education as a condition of renewal.
- b) Failure to complete the minimum number of BOSDs will result in suspension of a tester's certification until successful completion of the required continuing education.
- c) All BOST Testers must possess and maintain a valid unrestricted State of Colorado driver license prior to certification, and be at least 21 years of age.
- d) BOST Testers must recertify their BOSD certification with the Department every two calendar years. Failure to attend a Department continuing education class or recertifying event within a two-year period may result in suspension of a tester's certification until continuing education has been successfully completed. Proof of continuing education must be kept by a BOSTO in the BOST Tester's file for periodic review by the Department.
- e) BOST Testers cannot administer any BOST to a member of their immediate family. "Immediate family" is defined at section 42-1-102(43.5), C.R.S.
- f) A potential BOSD Tester:
1. must complete and pass the BOST training class;
 2. must show proof of four shadow drives on each route the tester will be using for BOSDs documented by a typed DR 2069 Shadow Cover Page (all within three errors as documented by another BOST Tester); and
 3. must complete all Shadow Drives within six weeks of passing the BOST training class.
- g) To be eligible for a BOST class, a potential BOSD Tester must have conducted at least 24 hours of BTW training or been employed by a BOSTO for at least one year.
- h) Applicants failing the BOSD with a BOST Tester must be re-tested by a different BOST Tester (The Department may waive this requirement upon request if the Department determines that this would be a hardship).
- i) BOST Testers will be evaluated on their ability to meet Department grading standards for BOSDs. The evaluation may be conducted during an actual BOSD or a BOSD with a Department representative as the driver. BOST Testers must follow Department procedures, meet Department standards, and must pass the evaluation with a score of 80% or higher. Failure to pass the evaluation will be grounds for the Department to require additional continuing education and/or suspension of the BOST Tester certification.

- j) The Department may deny certification of an individual or revoke certification of a Certified Employee if they have been convicted of a felony, or any offense involving moral turpitude. Conviction includes a plea of guilty or nolo contendere or a deferred sentence, provided that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence. In determining whether to deny or revoke a certification, the Department will consider the factors contained in section 24-5-101(4), C.R.S.

(500) RECORDKEEPING AND REPORTING

- a) CCDSs and BOSTOs must use only the most current version of Department forms and must account for all TCS, testing, and training forms.
- b) Audited records must be stored securely for a period of three years. Records include all contracts, records of student enrollment, DR 2045 Attendance Records, DR 2046 Attendance Records, and DR 2052 Attendance Records, DR 2070 Student Drive Time Logs, DR 2252 (English versions 1-4) and DR 2273 (Spanish versions 1-4) Driver's License Written Examinations, DR 2732 Basic Operator Driving Skill Test score sheets, progress reports, student TCSs, and control numbered forms previously issued by the Department.
- c) Student/parent contracts, progress reports and student enrollment records may be stored electronically after they have been audited.
- d) After three years all testing records must be shredded.
- e) All required testing information must be entered into DRIVES immediately, including passed and failed examinations.
- f) Training information (including driver education, EDAP/DAP, and BTW) must be entered into DRIVES within two business days of the student's completion.
- g) All TCSs must be maintained in chronological (date) order by submitted date and separated by exam type.
- h) CCDSs, BOSTOs, and Certified Employees are responsible for securing all blank training/testing forms, all TCSs, and passwords/logins associated with DRIVES.
- i) Post-dating, pre-dating, or partial completion of any testing/training form is not allowed.
- j) The CCDS is responsible for inaccurate/missing entries into DRIVES.

(600) AUDITING

- a) CCDSs must allow the Department to observe classroom instruction and BTW training.
- b) CCDSs are required to allow onsite inspections, examinations, and audits by a Department representative without prior notice in order to:
 - 1. review all required documentation, including, but not limited to, all TCSs, DR 2045 Attendance Records, DR 2046 Attendance Records, and DR 2052 Attendance Records, DR 2070 Student Drive Time Logs, DR 2252 (English versions 1-4) and DR 2273 (Spanish versions 1-4) Driver's License Written Examinations and DR 2732 Basic Operator Driving Skill Test score sheets;
 - 2. observe classroom instruction;

3. observe BTW instruction;
 4. inspect Class R vehicles;
 5. observe and score live road testing by a BOST Tester and compare pass/fail scores;
 6. test the skills of BOST Testers who administer the BOSD; and
 7. observe administration of the BOSW.
- c) A CCDS must surrender all required documentation to the Department upon request. The CCDS may make copies and retain copies of such documentation.
- d) Audits may be conducted at the CCDS's or BOSTO's office, the Department, or at another location as determined by DTE.
- e) To assure that CCDSs and BOSTOs continue to meet the standards established by the Department, a Department representative will conduct on-site inspections, examinations, and audits as often as the Department deems necessary and without prior notice, to review all required documentation, including but not limited to, contracts, student enrollment and progress records, DR 2045 Attendance Records, DR 2046 Attendance Records, and DR 2052 Attendance Records, DR 2070 Student Drive Time Logs, student completion records, classroom facilities, vehicles, and DR 2252 (English versions 1-4), DR 223 (Spanish versions 1-4) Driver's License Written Examinations, and DR 2732 Basic Operator Driving Skill Test score sheets. Records will be checked for accuracy and completeness, including, but not limited to, missing TCSs and, in the case of TCSs, for chronological filing sequence by submitted date.
- f) During Department audits, CCDSs and BOSTOs must cooperate with the Department, allow access to testing areas and routes, and supply student names and testing records, results, and any other regulated items as requested by the Department.
- g) CCDS records must be accessible during the CCDS's normal business hours and made available to a Department representative upon request.
- h) A CCDS must provide a TCS for each DRIVES entry with attached testing/training forms immediately if requested by the Department.
- i) A CCDS must sign and return any audit report within ten days of receipt.

(700) CERTIFICATION RENEWAL

- a) CCDS and Certified Employee certifications must be renewed annually on or before June 30th.
- b) CCDS contracts with the Department are subject to annual renewal.
- c) Renewal applications are due on June 1st of each calendar year. Failure to submit a sufficient application on or before June 1st may result in a CCDS's or BOSTO's or BOST Tester's certification not being renewed, and the Department will not honor exams entered into DRIVES by the CCDS, BOSTO, or BOST Tester on or after July 1st.
- d) Renewal applications must include a breakdown of the price of each package offered by the CCDS or BOSTO.

(800) SUSPENSION/ REVOCATION/ CESSATION OF BUSINESS

- a) After a notice and hearing pursuant to the State Administrative Procedure Act [sections 24-4-101, et. seq., C.R.S.], a certification(s) may be suspended or revoked for violations of any applicable Colorado Revised Statute, Rule, Regulation, contract obligation, including but not limited to any of the following:
1. Failure to return all copies of written knowledge tests and keys, certifications, and any testing/training documents within ten days of cessation of business;
 2. Failure to immediately enter testing results into DRIVES;
 3. Failure to enter training results into DRIVES within two business days of completion;
 4. Failing to comply with the registration, insurance, and equipment requirements of BTW Training;
 5. Refusing to be audited;
 6. Failure to address and/or correct deficiencies found in a previous audit or failing two or more audits. The Department's failure to take action based on an audit does not waive the Department's authority to take action later based on that audit;
 7. Supplying false information to the Department, or fraudulent testing or the fraudulent use of testing/training forms and/or TCSs;
 8. Omitting any test requirement from a BOSW or BOSD;
 9. Participation in any illegal activity related to driver licensing; and
 10. Incorrectly entering a test as a pass when it should have been a fail or entering a fail when it should have been a pass.
- b) Any information obtained by the Department concerning illegal or fraudulent activity concerning, but not limited to written knowledge or driving skills testing, will be referred to the appropriate law enforcement authority.
- c) If an applicant's testing was improper, illegal, or fraudulent, the applicant's driver license or instruction permit may be canceled.
- d) Where the Department has objective and reasonable grounds to believe and finds, upon a full investigation, that a CCDS, BOSTO, or BOST Tester has been guilty of deliberate and willful violation, or that the public health, safety, or welfare imperatively requires emergency action, and incorporates the findings in its order, it may summarily suspend the certification of the CCDS, BOSTO, or BOST Tester pending proceedings for suspension or revocation which shall be promptly instituted and determined. For purposes of this subsection, "full investigation" means a reasonable ascertainment of the underlying facts on which the Department action is based.
1. Upon receipt of a summary suspension, a CCDS, BOSTO or BOST Tester must immediately cease all testing as directed. The Department will promptly institute proceedings for suspension or revocation pursuant to the Administrative Procedure Act.
- e) Written complaints about a CCDS, BOSTO, or BOST Tester received by the Department may result in an investigation through the Department or the Motor Vehicle Investigative Unit.

- f) If a CCDS is found to be in violation of the terms of its contract with the Department, then the contract between the Department and the CCDS may be terminated.

(900) GRANDFATHER PROVISIONS

Law enforcement agencies and rehabilitation providers who are certified as BOSTOs are exempt from the teaching requirements as outlined in this rule.

(950) INCORPORATION BY REFERENCE

The materials in this Rule incorporated by reference do not include later amendments to or editions of the materials. The materials incorporated in this Rule are on file and available for inspection by contacting the Driver License Section of the Department of Revenue in person at, 1881 Pierce Street, Room 128, Lakewood, Colorado, 80214, or by telephone at 303-205-5600, and copies of the materials may be examined at any state publication depository library.

RULE 9 MOTORCYCLE RULES AND REGULATIONS FOR RST ORGANIZATIONS AND RST TESTERS

PURPOSE

This rule establishes the certification and operational requirements for the conduct of certified third party motorcycle rider skills testers.

STATUTORY AUTHORITY

Sections: 24-4-103; 24-4-104; 42-1-102(43.5); 42-1-102(55); 42-1-102(58); 42-1-204; 42-2-103; 42-2-106 and 42-2-111; 42-4-1502, C.R.S. (2016)

(100) DEFINITIONS

- a) **Department:** The Department of Revenue.
- b) **DRIVES:** Driver License Record Identification Vehicle Enterprise Solution.
- c) **DTE:** Driver Testing and Education within the Driver License Section of the Department of Revenue, Division of Motor Vehicles.
- d) **Motorcycle License Written Examination (Examination):** The DR 2256 or DR 2321 Motorcycle License Written Examination or an electronic equivalent.
- e) **MSF:** Motorcycle Safety Foundation.
- f) **Organization:** A third party testing organization to become an RSTO that has yet to be certified as a RSTO by the Department.
- g) **Rider Skills Test (RST):** A motorcycle operating skills test in which the applicant demonstrates the applicant's ability to exercise ordinary and reasonable care and control in the operation of the motorcycle while observed and graded by an RST Tester.
- h) **Rider Skills Tester (RST Tester):** An individual third party motorcycle rider skills tester certified by the Department to administer (including proctoring and grading) a Rider Skills Test and/or a Motorcycle License Written Examination.

- i) **Rider Skills Testing Certification (RST Certification):** A certification issued by the Department authorizing an individual or third party testing organization to administer Rider Skills Tests and Examinations to applicants seeking a motorcycle endorsement.
- j) **Rider Skills Testing Course (RST Course):** A course measured and painted according to Motorcycle Safety Foundation standards and pre-approved by the Department for use in RST testing.
- k) **Rider Skills Testing Organization (RSTO):** A third party testing organization certified by the Department to administer Rider Skills Tests and Examinations through an RST Tester.
- l) **Third Party Exam Completion Statement (TPE):** Form generated by DRIVES as a receipt to the applicant that the RST Tester has entered exam information into DRIVES.
- m) **Transaction Completion Statement (TCS):** Form generated by DRIVES that indicates data was entered into DRIVES for a submitted exam.

(150) APPLICABILITY

This Rule 9 applies to any individual tester or third party testing organization that offers a statutorily-mandated examination to a person seeking a motorcycle endorsement.

(200) GENERAL REQUIREMENTS FOR RSTOs

- a) Only an organization certified by the Department pursuant to this Rule 9 can employ an individual to administer an RST, Examination, or issue documents indicating test completion.
 - 1. An organization seeking certification as an RSTO must complete and submit a typed Department approved application form.
 - 2. All certifications are valid for the fiscal year (July 1st through June 30th) issued.
- b) A third party organization must enter into a written contract with the Department in order to be certified by the Department.
- c) An RSTO must notify the Department in writing within three business days of: (1) an employee's change in Examination or RST Tester status; (2) the date that a certified employee is no longer employed by the RSTO; (3) a DRIVES lock out; (4) cessation of business; or (5) any change in directors, owners, or managers.
- d) An RSTO must notify the Department in writing within three business days of the loss of use of an RST Course or the addition of an RST Course, or if an RST Course no longer meets the requirements listed in subsection 300 of this rule.
- e) All Examinations and RST testing must be equivalent to tests administered by the Department.
- f) Tests administered by RST Testers must be consistent with RST Tester training and only the DR 2610 Rider Skills Test Score Sheet provided by the Department may be used.
- g) An RSTO cannot administer an RST or an Examination; only an RST Tester can administer an RST or Examination for his/her RSTO employer.
- h) Every organization's owner and manager must complete records management training provided by the Department before the organization may be certified as an RSTO.

- i) An RSTO must comply with, and ensure that any RST Tester it employs complies with, applicable Colorado Revised Statutes, Rules and Regulations, and Department orders.
- j) An RSTO must provide the Department with the RSTO's physical and mailing addresses, unique email addresses for the RSTO and each employee, a contact phone number, and the name of one contact person who is an employee or principal of the RSTO.
 - 1. An RSTO must notify the Department in writing within three business days of any change in its physical place of business and mailing address, contact phone number, and contact person.
- k) An RSTO must provide the Department a Colorado Bureau of Investigation background check for each certified employee.
- l) The Department may deny or revoke the certification of an RSTO if an owner, director, or manager has been convicted of a felony or any offense involving moral turpitude. Conviction includes a plea of guilty or nolo contendere or a deferred sentence, however a person who receives a deferred sentence shall not be deemed to have been convicted if the person has successfully completed a deferred sentence.
 - 1. In determining whether to deny or revoke a certification, the Department will consider the factors contained in section 24-5-101(4), C.R.S.
- m) An RSTO must have proof of current and valid general liability insurance and worker's compensation insurance in the form of an insurance certificate, if required by the Workers' Compensation Act [Sections 8-40-101, et. seq. C.R.S.], on file with the Department at all times.
 - 1. The Department must be listed on the general liability insurance policy as a secondary insured.
 - 2. Not less than 30 days prior to expiration of the current insurance coverage period, the RSTO must provide an insurance certificate to the Department for the period following the current insurance coverage period.
 - 3. The RSTO must notify the Department immediately upon cancellation of an insurance policy.
 - 4. Failure to maintain current insurance coverage is grounds for suspension, and such suspension may be in effect until a current insurance certificate is provided to the Department.
- n) In the event an RSTO's certification is not renewed, or is revoked or suspended, all individual RST Tester certifications for that RSTO will be revoked, suspended, or not renewed.
- o) The Department will issue a unique tester number, login, and password to each RST Tester. Unauthorized use of an assigned number by any RSTO employee may result in revocation or suspension of the RSTO's certification.
- p) The RSTO must ensure that complete and accurate information is entered into DRIVES by an RST Tester.
- q) The RSTO must ensure multiple TCSs, or TCSs that have been incorrectly entered from pass to fail or fail to pass requiring the result be reversed, are stapled to supporting score sheets/written examinations.

- r) The RSTO must ensure that the TPE is provided to the applicant by the RST Tester.
- s) The RSTO must ensure that nothing marks or covers the TCS barcode, and ensure that the barcode is readable by a barcode scanner.
- u) An RSTO must refer the following to a Colorado driver license office:
 - 1. an applicant requesting a DR 2256 or DR 2321 Motorcycle License Written Examination after failing a paper version of the Examination four times.;
 - 2. an applicant who does not have a valid driver license and who is requesting an Examination or RST test; or
 - 3. an applicant unable to produce a valid photo ID.
- v) RSTOs must complete and submit a typed DR 2067 New RST Employee Request for a prospective RST Tester prior to requesting training or certification for a prospective RST Tester.

(250) GENERAL REQUIREMENTS FOR RST TESTERS

- a) Only an individual certified by the Department as an RST Tester pursuant to this Rule 9 can administer an RST, an Examination, or issue documents indicating test completion.
 - 1. An individual seeking certification as an RST Tester must:
 - i. complete and submit a typed DR 2068 BOST/RST/Continuing Education Training Registration Form;
 - ii. be at least 21 years of age;
 - iii. have a valid Colorado Driver License;
 - iv. complete and pass all Department required training; and
 - v. be employed by an RSTO.
 - 2. An RST Tester need not be certified to administer the Examination in order to be an RST Tester.
 - 3. An applicant for RST Tester certification, or his or her employer, is responsible for any fees or costs associated with RST training and certification.
 - 4. All RST testers must complete continuing education and pass a test administered by the Department every other calendar year after the year of certification.
 - 5. RST Testers must conduct a minimum of ten RST tests every fiscal year (July 1st through June 30th). An RST Tester who fails to conduct ten RST tests within a fiscal year will not be re-certified to administer an RST test until he/she has completed and passed continuing education.
 - 6. An RST Tester certification is valid for the fiscal year (July 1st through June 30th) issued.

- b) An RST Tester may be employed by more than one RSTO. An RST Tester employed by more than one RSTO will be issued a separate tester number for each RSTO employing the RST Tester. An RST Tester certification is valid only while the Tester is employed by the RSTO listed on the certificate.
- c) Testing of applicants must be consistent with RST Tester training and RST Testers must use only the DR 2610 Rider Skills Test Score Sheet provided by the Department.
- d) An RST Tester must comply with applicable Colorado Revised Statutes, Rules and Regulations, and Department orders.
- e) The Department may deny or revoke certification of an RST Tester who has been convicted of a felony or any offense involving moral turpitude. Conviction includes a plea of guilty or nolo contendere or a deferred sentence, however a person who receives a deferred sentence shall not be deemed to have been convicted if the person has successfully completed a deferred sentence.
 - 1. In determining whether to deny or revoke a certification, the Department will consider the factors contained in section 24-5-101(4), C.R.S.
- f) An RST Tester must follow the Department's standards when administering an RST or an Examination.
- g) The Department will issue a unique tester number and login/password to each RST Tester. RST Testers must use only their own login and password to access DRIVES, and must not authorize any other person to use his/her login password or unique tester number.
- h) An RST Tester must refer the following to a Colorado driver license office;
 - 1. an applicant requesting a Motorcycle License Written Examination after failing a paper version of the Motorcycle License Written Examination four times;
 - 2. an applicant who does not have a valid driver license and who is requesting any test; or
 - 3. an applicant unable to produce a valid photo ID.
- i) An RST Tester cannot administer an RST or Examination to a member of their immediate family. "Immediate family" is defined in section 42-1-102(43.5), C.R.S.
- j) An RST Tester must enter complete and accurate information into DRIVES.

(300) RST COURSE SITE REQUIREMENTS

- a) An RSTO must ensure that its RST Course meets Departmental requirements for the RST. The Department has adopted testing and course standards contained in Motorcycle Safety Foundation, Inc., MSF Rider Skill Test, Motorcycles & 3-wheel Motorcycles, Examiner Study Guide, Seventh Printing: July 2016, at 12-20, incorporated herein by reference. A copy of the MSF Rider Skill Test, Motorcycles & 3-wheel Motorcycles may be obtained by contacting Motorcycle Safety Foundation, 2 Jenner, Suite 150, Irvine, CA 92618-3806 ("MSF Examiner Study Guide").
- b) An RSTO must provide the Department a signed DR 2149 RST Land Use Authorization for each RST Course used by the RSTO to administer an RST, authorizing the RSTO to paint the RST Course and to administer RSTs on the property.

- c) A DR 2149 RST Land Use Authorization must be filed with the Department before an RST Course will be approved.
- d) Only RST Courses approved by the Department may be used to administer the RST.
- e) When in use, an RST Course surface must be free from defects; foreign matter including, but not limited to, debris, sand, gravel, water, ice, and snow; and any object not authorized in the MSF Examiner Study Guide, pages 12-20.
- f) An RST Course that measures over $\frac{1}{2}$ of one inch outside MSF standards, as referenced in the MSF Examiner Study Guide, pages 12-20, does not meet Department requirements, and approval of that course will be suspended.
- g) All RST Course markings must be plainly visible and accurate.

(400) RST TESTING REQUIREMENTS

- a) An RSTO must allow the Department to conduct random inspections and audits of the organization's RST testing records, procedures, and RST Course(s).
- b) Prior to administering an RST, RST Testers must verify in DRIVES that the applicant has a valid driver license and a valid motorcycle instruction permit in his/her immediate possession.
- c) An RSTO must ensure that RSTs are administered only by RST Testers certified to administer an RST and employed by that RSTO.
- d) RSTs may be administered only during daylight hours. For purposes of this rule, daylight hours means the period between one-half hour before sunrise and one-half hour after sunset.
- e) An RSTO and RST Tester must ensure that all testing forms are completed correctly and accurately prior to entering information into DRIVES.
- f) The TCS must not be entered until after an applicant has completed the RST.
- g) An RST Tester's entry of information into DRIVES for generation of a TCS constitutes a representation by the RST Tester that the applicant whose name is entered has completed the RST.
- h) RST Testers must note all failures on an applicant's DR 2610 Rider Skills Test Score Sheet and enter the failure into DRIVES immediately.
- i) RST Testers must ensure that the 2-Wheel/3-Wheel vehicle used for testing is 50 CC or greater.
- j) Only one rider and the RST Tester are allowed on an RST Course during the RST. No other person is allowed on the RST Course during the RST.
- k) All portions of the RST must be completed consecutively by an applicant.
- l) Applicants must take the RST on a motorcycle that meets state requirements for equipment, safety, insurance, and motor vehicle registration.
- m) An applicant under 18 years of age must wear a helmet that meets the standards described in section 42-4-1502(4.5) C.R.S. while testing.
- n) An RST Tester must not administer more than one complete RST per day to an applicant.

- o) An RST must be equivalent to testing administered by the Department.
- p) RST Testers must ensure that applicants who take a 2-Wheel or 3-Wheel RST receive a TCS reflecting whether the vehicle used in the test was a 2-Wheel or 3-Wheel vehicle.

(500) MOTORCYCLE LICENSE WRITTEN EXAMINATION

- a) RST Testers administering the Examination must immediately issue the TPE to the applicant upon completion of the test. The TPE is valid for 180 days from the date of issue. Only the RST Tester who administered the Examination may enter this information into DRIVES.
- b) RST Testers administering Examinations must:
 - 1. administer Examinations only at a location pre-approved by the Department;
 - 2. ensure that applicants do not access any unauthorized assistance, including but not limited to, written material, cell phones, or electronic devices, or communicate with any unauthorized person while testing;
 - 3. require applicants to write their first and last name(s), date of birth, and the date of the Examination in the information box provided on the DR 2256 or DR 2321 Motorcycle License Written Examination. Interpreters, including an RST Tester acting as an interpreter, must write their first and last name(s) and driver license number on the back of the paper test;
 - 4. require a correct score of 80% or higher to pass;
 - 5. grade correctly using the score key and a red pen when grading a DR 2256 or DR 2321 Motorcycle License Written Examination;
 - 6. not administer more than four DR 2256 or DR 2321 Motorcycle License Written Examinations per applicant in total, and no more than two Examinations to an applicant per day. If an applicant fails four DR 2256 or DR 2321 Motorcycle License Written Examinations, all subsequent tests must be taken at a Department driver license office; and
 - 7. ensure that an applicant who fails an DR 2256 or DR 2321 Motorcycle License Written Examination is not administered the same version of the DR 2256 or DR 2321 Motorcycle License Written Examination in any subsequent attempt. If an applicant misses more than 50% of the questions on a first attempt, the applicant must wait until the next day to take the DR 2256 or DR 2321 Motorcycle License Written Examination again.
- c) Applicants may use an interpreter for the Examination. An RST Tester may serve as an interpreter.
- d) An interpreter must be at least 16 years old and show an unexpired driver license from any state in the United States.
- e) An interpreter may only interpret the questions and answer choices.
- f) Examinations must not be used as “practice” or “pre” tests or for any other unauthorized purpose.
- g) DR 2256 or DR 2321 Motorcycle License Written Examinations may not be copied outside the physical facilities of the RSTO, unless the Examinations remain under the direct supervision and control of the RSTO.

- h) TCSs must not be entered into DRIVES until after a student has completed the Examination.
- i) RST Testers administering the DR 2256 or DR 2321 Motorcycle License Written Examination must confirm upon renewal of their certification to administer Motorcycle License Written Examinations that they have the most current version of Examinations and corresponding Examination keys.
- j) Examinations must be administered (including proctoring and grading) by an RST Tester with a certification to administer an Examination.
- k) The RST Tester administering the Examination is responsible for the accurate grading of the DR 2256 or DR 2321 Motorcycle License Written Examination.
- l) Testers must ensure that the applicants who complete the Examination receive a TPE that reflects the correct type of vehicle.
- m) All Motorcycle License Written Examination scores must be entered into DRIVES immediately upon completion by the RST Tester who administered the Examination.

(600) RECORDS AND REPORTING REQUIREMENTS

- a) Records and documents must be filed and maintained at a single and secure location in chronological (date) order, separated by months.
- b) All non-electronic records, including TCS must be retained by the RSTO for three years from the date of the document, after which they must be securely shredded.
- c) Regardless of pass or fail, all Examinations must be:
 - 1. entered into DRIVES immediately by the RST Tester who administered the Examination; and
 - 2. if paper, stapled to the TCS and filed in chronological order for each DR 2256 or DR 2321 Motorcycle License Written Examination.
- d) Regardless of pass or fail, all RSTs must be:
 - 1. entered into DRIVES immediately by the RST Tester who administered the RST; and
 - 2. stapled to the TCS and filed in chronological order for each DR 2610 Rider Skills Test Score Sheet.
- e) All TCSs must be accounted for and unused Department forms must be stored in a single and secure location.
- f) Post-dating, pre-dating, or partial completion of any Department form is prohibited.

(700) AUDITING

- a) Departmental audits may be conducted at the RSTO's office, the Department's office, or at another location as determined by the auditor.

- b) The Department will conduct audits as often as the Department deems necessary to review all required records. Records will be checked for accuracy and completeness, including, but not limited to, missing records, and, in the case of TCSs, for chronological filing sequence separated by month.
- c) An RSTO must cooperate with the Department, including allowing access to Examination and RST testing areas, and supplying student names and Examination and RST testing records, results, and any other items requested by the Department.
- d) RSTO records must be accessible during the RSTO's normal business hours.
- e) RSTO records must be provided or made available to a Department representative upon request.
- f) An RSTO must receive a score of 80% or higher to pass an audit. Records management and/or continuing education may be required for an RSTO that fails an audit. Failing an audit will also result in a notice of a serious violation. Two or more audit failures may result in suspension or revocation of certifications.

(800) CERTIFICATION RENEWAL

- a) RSTO and RST Tester certifications must be renewed annually on or before June 30th.
- b) Renewal applications are due on June 1st of each calendar year. Failure to submit a sufficient application on or before June 1st may result in an RSTO's or RST Tester's certification not being renewed, and the Department will not honor exams entered into DRIVES by the RSTO or RST Tester on or after July 1st.
- c) Incomplete renewal applications will be deemed as not received and will be returned to the RSTO submitting the application.
- d) An organization that fails to renew its RSTO certification is no longer authorized to administer an RST, Examination, or enter information into DRIVES.
- e) An RSTO must submit a current Colorado Bureau of Investigation background check for each certified employee with its renewal packet.

(900) SUSPENSION/REVOCATION/CESSATION OF BUSINESS

- a) After a notice and hearing pursuant to the State Administrative Procedure Act [sections 24-4-101, et. seq., C.R.S.], a certification(s) may be suspended or revoked for violations of any applicable Colorado Revised Statute, Rule, or Regulation, or Department order, including but not limited to any of the following:
 - 1. Failure to return all copies of DR 2256 or DR 2321 Motorcycle License Written Examinations, keys, and certifications by certified mail within 10 calendar days after cessation of business;
 - 2. Failure to provide or allow the Department access to any record required to be maintained;
 - 3. Failure to allow the Department access to an Examination or RST testing area, or failure to cooperate in an audit;

4. Failure to address and/or correct deficiencies found in a previous audit or failing two or more audits. The Department's failure to take action based on an audit does not waive the Department's authority to take action later based on that audit;
 5. Providing false information to the Department;
 6. Improper, illegal, or fraudulent Examination or RST testing, or improper, illegal, or fraudulent use of DRIVES, issued forms, and/or a TCS;
 7. Omitting a test requirement from an Examination or from an RST;
 8. Participating in any illegal activity related to licensing;
 9. Attaching a TCS to a blank DR 2610 Rider Skills Test Score Sheet or to a DR 2256 or DR 2321 Motorcycle License Written Examination;
 10. Incorrectly entering an Examination score or data for an RST as a pass when it should have been a fail or entering a failed Examination score or data for an RST when it should have been a pass; or
 11. Having missing TCS(s) or TCS(s) without supporting documentation.
- b) The Department will provide information concerning illegal activity to the appropriate law enforcement authority.
- c) If an applicant's Examination or RST testing was improper, illegal, or fraudulent, the Department may cancel the applicant's motorcycle endorsement.
- d) Notwithstanding anything to the contrary in this rule 9, pursuant to section 24-4-104(4), C.R.S., where the Department has objective and reasonable grounds to believe and finds, upon a full investigation, that an RSTO or RST Tester has been guilty of a deliberate and willful violation, or that the public health, safety, or welfare imperatively requires emergency action, and incorporates the findings in its order, it may summarily suspend the certification of the RSTO or RST Tester pending proceedings for suspension or revocation which shall be promptly instituted and determined. For purposes of this subsection, "full investigation" means a reasonable ascertainment of the underlying facts on which the Department's action is based.
1. Upon receipt of a summary suspension, an RSTO or RST Tester must immediately cease all testing as directed. The Department will promptly institute proceedings for suspension or revocation pursuant to the Administrative Procedure Act.

(950) INCORPORATION BY REFERENCE

- a) The materials in this Rule incorporated by reference do not include later amendments to or editions of the materials. The materials incorporated in this Rule are on file and available for inspection by contacting the Driver License Section of the Department of Revenue in person at, 1881 Pierce Street, Room 128, Lakewood, Colorado, 80214, or by telephone at 303-205-5600, and copies of the materials may be examined at any state publication depository library.

RULE 11 INTERLOCK-RESTRICTED LICENSES

Basis: These rules are promulgated pursuant to sections 24-4-103, 42-1-204, and 42-2-132.5, C.R.S.

Purpose: These rules regulate the issuance of Interlock-Restricted Licenses, the monitoring of driver compliance with Interlock-Restricted Licenses, the extension of interlock restrictions, and the revocation of Interlock-Restricted Licenses for non-compliance.

1. Definitions

- 1.1. Administrative Record – Includes, but is not limited to, incident reports provided pursuant to section 42-2-132.5(10), C.R.S., court records, law enforcement records, government records, and reports provided by an Interlock Provider.
- 1.2. Alcohol-Related Revocation—A license revocation taken against a driving privilege based at least in part on a violation of sections 42-2-126, 42-4-1301, or 42-4-1301.1, C.R.S.
- 1.3. BAC Event—An interruption or prevention of the normal operation of a motor vehicle by an Ignition Interlock Device due to excess breath alcohol content, exclusive of positive readings as the result of mouth alcohol and/or contaminants.
- 1.4. Circumvention— Means operating a motor vehicle without an Ignition Interlock Device, or attempting to or successfully operating an Interlock Vehicle by avoiding the proper functioning of the Ignition Interlock Device by any means, including, but not limited to: unauthorized emergency bypass; operating an Interlock Vehicle with an Ignition Interlock Device that is not properly functioning; push starting an Interlock Vehicle; the introduction of a breath sample other than a current sample from the driver of the Interlock Vehicle; the introduction of an intentionally contaminated or altered breath sample; continued operation of an Interlock Vehicle without providing a breath sample from the driver when required; or continued operation of an Interlock Vehicle after the Ignition Interlock Device detects an alcohol level above the level recommended by the National Highway Traffic Safety Administration (NHTSA) and as established by the Department.
- 1.5. Early Reinstatement—Reinstatement authorized by section 42-2-132.5(4), C.R.S.
- 1.6. Excess Breath Alcohol Content—For purposes of this Rule, Excess Breath Alcohol Content means the level of breath alcohol established by the Department at which an Ignition Interlock Device should prevent or discontinue normal operation of a motor vehicle or otherwise indicate a violation.
- 1.7. Financial Assistance---Monetary credits against the cost of an Ignition Interlock Device provided by the Department to persons who are unable to pay the full cost of an approved Ignition Interlock device as provided in section 42-2-132.5(4)(a)(II)(C), C.R.S.
- 1.8. Ignition Interlock Device—A device as defined in section 42-2-132.5(9), C.R.S.
- 1.9. Interlock-Restricted License—A license issued under the provisions of section 42-2-132.5, C.R.S., that restricts the driver to driving only motor vehicles equipped with a properly functioning Ignition Interlock Device.
- 1.10. Interlock Provider—A contractor designated by the Department to be a provider of Ignition Interlock Devices.
- 1.11. Interlock Vehicle—A vehicle equipped with an Ignition Interlock Device installed by an Interlock Provider.

- 1.12 Non-owner Affidavit—An affidavit filed by a person affirming that the person is not the registered owner or co-owner of any motor vehicle in Colorado and does not have access to a motor vehicle in Colorado in which to install an Ignition Interlock Device.
- 1.13 Owner Affidavit—An affidavit filed by a person pursuant to section 42-2-132.5(5)(a), C.R.S., stating that the person has obtained a signed lease agreement for the installation and use of an approved Ignition Interlock Device in every motor vehicle on which the person's name appears on the registration and any other motor vehicle that the person may drive, and the written consent of all other owners, if any, of each motor vehicle in which an approved Ignition Interlock Device is installed.
- 1.14 Proof of Financial Responsibility—A valid SR-22 form obtained from an insurance company, or other proof of financial responsibility as defined in section 42-7-103(14), C.R.S.
- 1.15 Reporting Period—A calendar month.
- 1.16 Tampering – Means physically intercepting, bypassing, or interfering with or aiding another person to physically intercept, bypass, or interfere with an Ignition Interlock Device for the purpose of preventing or hindering the lawful operation or purpose of the Ignition Interlock Device.

2. Reinstatement Requiring Ignition Interlock Restriction

- 2.1. A person who is required to hold an Interlock-Restricted License pursuant to section 42-2-132.5(1), C.R.S., and who: (1) has served the duration of his or her required revocation; (2) is not seeking Early Reinstatement; and (3) does not have access to a vehicle, may be issued an Interlock-Restricted License if the person:
 - 2.1.1. Files an Non-Owner Affidavit with the Department;
 - 2.1.2. Satisfies all licensing conditions imposed by law; and
 - 2.1.3. Applies for an Interlock-Restricted License.
- 2.2. A person who is required to hold an Interlock-Restricted License pursuant to section 42-2-132.5(1), C.R.S., and who has served the duration of his or her required revocation or is eligible for Early Reinstatement may be issued an Interlock-Restricted License if the person:
 - 2.2.1. Files an Owner Affidavit with the Department;
 - 2.2.2. Satisfies all other licensing conditions imposed by law; and
 - 2.2.3. Applies for an Interlock-Restricted License.
- 2.3. A person who is required to hold an Interlock-Restricted License pursuant to section 42-2-132.5(1), C.R.S., and who: (1) has served the duration of his or her required revocation; (2) does not reside in Colorado; and (3) is not requesting a license, may reinstate their driving privilege without acquiring an Interlock-Restricted License if the person:
 - 2.3.1. Files a Non-Owner Affidavit with the Department;
 - 2.3.2. Files an Out-of-State Residency Affidavit; and
 - 2.3.3. Satisfies all other licensing conditions imposed by law.

- 2.4. A person who reinstates his or her driving privilege under subsection 2.3 (out-of-state resident) shall not operate a motor vehicle in the State of Colorado from the date of reinstatement until the date the Colorado interlock requirement is set to expire, unless the motor vehicle is equipped with a properly functioning Ignition Interlock Device; the person is subject to all of the monitoring requirements and provisions that apply to a Colorado Interlock-Restricted License.
- 2.5. A person whose Colorado license has an interlock restriction remains subject to compliance monitoring, reporting, and sanction pursuant to section 42-2-132.5, C.R.S. and these rules, regardless of the person's state of residence or physical location.
- 2.6. A person with an Interlock-Restricted License shall not, during the interlock restriction period, operate a motor vehicle that is not equipped with a properly functioning Ignition Interlock Device.
- 2.7. A person whose Interlock-Restricted License is based on a Non-owner Affidavit is not required to complete a test of driving skills until expiration of his or her interlock restriction.
- 2.8. A person who has a Colorado interlock requirement cannot be issued any type of driver's license, other than an Interlock-Restricted license, until the interlock requirement has been satisfied.

3. Early Reinstatement with an Interlock-Restricted License

- 3.1. A person whose license is subject to one or more Alcohol-Related Revocations and who is eligible for Early Reinstatement under section 42-2-132.5(4), C.R.S. may be issued an Interlock-Restricted License upon completion of the required minimum period of revocation as set forth in 42-2-132.5(4)(a), C.R.S. if he or she:
 - 3.1.1. Files an Owner Affidavit with the Department;
 - 3.1.2. Provides Proof of Financial Responsibility to the Department in the person's name;
 - 3.1.3. Satisfies all other conditions for reinstatement imposed by law; and
 - 3.1.4. Satisfies all licensing conditions imposed by law.

4. Monitoring Compliance with the Interlock Restriction

- 4.1. Interlock Providers shall provide monthly monitoring reports to the Department for each Ignition Interlock Device installed in an Interlock Vehicle.
 - 4.1.1. Interlock Providers shall download the information stored in the Interlock Device every month, and shall analyze the information to determine whether there have been any BAC Events or Circumventions since the prior inspection.
 - 4.1.2. Interlock Providers may notify the motor vehicle owner and the Interlock-Restricted driver of any detected BAC Events or Circumventions. Whether or not an Interlock Provider so notifies an Interlock-Restricted driver does not prevent the Department from taking action based on BAC Events or Circumventions.
- 4.2. An Interlock Provider shall check and notify the Department regarding each Ignition Interlock Device and its installation in the Interlock Vehicle as provided in section 42-2-132.5(6), C.R.S. An Interlock Provider that detects Tampering shall notify the Department of that fact within five calendar days using a form provided by the Department.
- 4.3. The Department may notify appropriate law enforcement and other authorities of any violation of title 42.

- 4.4. Three monthly reports showing BAC Events in any twelve consecutive Reporting Periods will result in an extension of the interlock restriction for an additional twelve months after the expiration of the existing interlock restriction, subject to the provisions of section 5.3.1.

- 4.4.1. Section 4.4 also applies to a person whose period of interlock restriction expired during a Reporting Period, if the report for that Reporting Period shows that a BAC Event occurred before the interlock restriction expired.

5. Interlock-Restricted License Hearings

- 5.1. A person whose Interlock-Restricted License is revoked based on a conviction under section 42-2-132.5(10), C.R.S., is entitled to a hearing pursuant to section 42-2-132.5(7)(a), C.R.S. A request for a hearing will not postpone revocation of the Interlock-Restricted License.

- 5.1.1. The only issues considered at a hearing on the revocation are whether there is a valid record of a conviction and the calculation of the length of the ineligibility. The Hearing Officer has no discretion to shorten the revocation period prescribed in section 42-2-132.5(7)(a), C.R.S.

- 5.2. A person whose Interlock-Restricted License is revoked, or who has received notice that his or her Interlock-Restricted License will be revoked, based on an Administrative Record other than a notice of conviction is entitled to a hearing pursuant to section 42-2-132.5(7)(b), C.R.S. Upon receipt of a request for a hearing, the Department shall reinstate an Interlock-Restricted License that has been revoked, in which case the Interlock-Restricted License will remain active unless and until a Hearing Officer determines the Interlock-Restricted License should be revoked.

- 5.2.1. The only issues considered at a hearing pursuant to this rule 5.2 are whether the Administrative Record establishes that the person operated a motor vehicle without an Ignition Interlock Device or circumvented or attempted to circumvent the proper use of an Ignition Interlock Device and, if so, whether the term of the revocation was properly calculated. A Hearing Officer has no discretion to shorten the revocation period prescribed in section 42-2-132.5(7)(b), C.R.S.

- 5.3. A person whose interlock license restriction is extended pursuant to 4.4 above is entitled to a hearing pursuant to section 42-2-132.5(7)(d), C.R.S.

- 5.3.1. The Hearing Officer shall determine whether a BAC Event occurred in three of any twelve consecutive Reporting Periods and, if so, shall determine an appropriate extension period for the Interlock-Restricted License not to exceed twelve months.

- 5.3.2. A single BAC Event may not be used as a basis to impose more than one extension of an Interlock-Restricted License.

- 5.3.3. A Hearing Officer may consider the following as aggravating for the purpose of determining an appropriate extension period:

5.3.3.1. Three or more BAC Events in any one Reporting Period;

5.3.3.2. BAC Events in more than three of the consecutive Reporting Periods under consideration at the hearing;

5.3.3.3. A reported breath or blood alcohol level in excess of 0.05 grams of alcohol per 210 liters of breath or 100 milliliters of blood;

- 5.3.3.4. Three or more readings consistent with attempted drinking and driving regardless of whether such readings contributed to a BAC Event.
- 5.3.3.5. BAC Events occurring in each of the final six Reporting Periods of an Interlock Restriction period;
- 5.3.3.6. A prior extension or renewal of an Interlock-Restricted License.
- 5.3.4. A Hearing Officer may consider the following as mitigating for the purpose of determining an appropriate extension period:
 - 5.3.4.1. An isolated (one) BAC Event (attempted start), indicating the driver with the Interlock-Restricted License did not reattempt a start after the initial BAC Event;
 - 5.3.4.2. A driver's initiation of voluntary or enhanced alcohol treatment or therapy after the last BAC Event;
 - 5.3.4.3. More than one year remaining on the Interlock Restriction; and
 - 5.3.4.4. Any other factors that a person with an Interlock-Restricted License may submit in mitigation.

6. Qualification for Ignition Interlock Financial Assistance

- 6.1 An eligible person ("Applicant") who is unable to pay the full cost of an Ignition Interlock Device may apply for financial assistance. In order to be eligible for financial assistance, the Applicant must:
 - 6.1.1 Be a first-time offender; or
 - 6.1.2 Meet the definition of a persistent drunk driver in section 42-1-102(68.5)(a), and the initial installation of an Ignition Interlock Device on his or her motor vehicle must have occurred on or after January 1, 2014; and
 - 6.1.3 Have filed a Colorado Income Tax Return within the immediately preceding calendar year demonstrating an inability to pay or otherwise establish an inability to pay the full cost of an Ignition Interlock Device as described in 6.2.
- 6.2 Financial Assistance is awarded based upon the Federal Adjusted Gross Income (FAGI) and a factor of the most current Poverty Guidelines established by the Department of Health and Human Services. If a person's FAGI falls within the factor and funds are available, financial assistance may be awarded.
- 6.3 The Department may adjust the factor described in 6.2 above based on the availability of funds and current funding commitments. The current factor will be available upon request.
- 6.4 An Applicant who meets the requirements set forth in 6.1 above, and who is denied financial assistance, may request a review and reconsideration of the denial by providing one of the following to the Department:
 - 6.4.1 A copy of the person's current IRS Tax Transcript showing a FAGI within the current factor; or

- 6.4.2 If the Applicant has not filed a tax return because the Applicant's income is below the filing threshold, a copy of a determination letter issued by the Division of Human Services showing current coverage in one of the PEAK programs including food, medical, or cash assistance; or
- 6.4.3 A copy of a Court's Declaration of Indigency issued in a criminal proceeding within the preceding twelve months.
- 6.5. If the Department denies financial assistance after review and reconsideration pursuant to 6.4, the Department will promptly issue a Notice of Denial to the Applicant, who may request a hearing as provided in 7.1 below.
- 6.6. Financial Assistance may be awarded in an amount set by the Department, per Interlock-Restricted License, regardless of the initial length of the interlock restriction or of any extension of the interlock restriction. Financial Assistance is distributed only as incremental credits against the interlock fees charged by the Interlock Provider. The Department will not provide funds directly to the driver. In order to receive credit up to the driver's full award of financial assistance, a driver must remain compliant with all ignition interlock program requirements, and must hold and maintain a valid Interlock-Restricted License.
- 7. Denial of Financial Assistance Hearing**
 - 7.1 An Applicant denied financial assistance after review and reconsideration pursuant to 6.4 may, within 60 days of the date of mailing of the Notice of Denial, request a hearing on the denial by filing a written request for hearing with the Hearings Division of the Department at 1881 Pierce St. #106, Lakewood, CO 80214.
 - 7.2 Hearings shall be held in accordance with the provisions of the State Administrative Procedure Act and the provisions of title 42 of Colorado Revised Statutes.
 - 7.3 The only issue at hearing will be whether the Applicant is unable to pay the full cost of an Ignition Interlock Device.
 - 7.3.1 The Hearing Officer may consider any reasonable evidence, whether documents, witnesses, or other evidence.

**RULE 12 RULES GOVERNING ENROLLMENT IN LEVEL II ALCOHOL AND DRUG
EDUCATION AND TREATMENT PROGRAMS**

SECTION 1. AUTHORITY

Basis, Purpose and Statutory Authority:

The statutory bases for this regulation are §§ 42-2-144 and 42-4-1301.3, C.R.S. (2015).

The purpose of this rule is to set forth the types of documents that the Department will accept as proof that a driver has enrolled in or has completed a required Level II treatment program. It clarifies that a Level II treatment program is required by statute when a driver has specific alcohol and/or drug violations, and describes the process for reinstatement of the driving privilege in connection with such programs. The rule also outlines the responsibilities of the Department as well as the Office of Behavioral Health with maintaining accurate records of both client and Level II provider status.

These rules are promulgated under the authority of §§ 24-4-103 and 42-1-204, C.R.S. (2015).

SECTION 2. DEFINITIONS

- 2.1 “Affidavit of Enrollment” means form DR2643 provided by the Department or an approved electronic equivalent.
- 2.2 “Alcohol or Drug violation” means a conviction for a violation of § 42-4-1301, C.R.S. (2015), or a revocation pursuant to § 42-2-126(4)(d)(II)(A), C.R.S. (2015), or as otherwise provided by law.
- 2.3 “Department” means the Colorado Department of Revenue created in § 24-1-117, C.R.S. (2015).
- 2.4 “Estimated date of completion” means the latest date when the client is expected to have successfully completed all components of their assigned Level II Program.
- 2.5 “Level II Agency” means an organization licensed by the Office of Behavioral Health of the Colorado Department of Human Services to provide Level II Programs.
- 2.6 “Level II Program” means a level II program as described in § 42-4-1301.3(3)(c)(IV), C.R.S. (2015).
- 2.7 “OBH” means the Office of Behavioral Health within the Colorado Department of Human Services created in § 24-1-120(6)(d), C.R.S. (2015).
- 2.8 “TMS” means “Treatment Management System,” the database utilized by Level II Agencies to electronically track and report client enrollment and status.

SECTION 3. WHEN A LEVEL II PROGRAM IS REQUIRED

- 3.1 The following persons must complete a Level II Program:
 - 3.1.1 A person whose license was revoked pursuant to § 42-2-125(1)(i), C.R.S. (2015); and
 - 3.1.2 A person whose driving record otherwise indicates the person is a persistent drunk driver as defined in § 42-1-102(68.5), C.R.S. (2015).

SECTION 4. REINSTATEMENT OF DRIVING PRIVILEGE PRIOR TO COMPLETION OF LEVEL II PROGRAM

- 4.1 The Department may reinstate the driving privilege of a person who is required to complete a Level II Program prior to his/her completing that Level II Program upon the person filing with the Department proof of enrollment in a Level II Program, except that a person who has received a notice of cancellation and denial from the Department for failure to complete a Level II Program must complete a Level II Program prior to reinstatement of his or her driving privilege.
- 4.2 An application for reinstatement of the driving privilege after a license has been cancelled for failure to complete a Level II Program shall be accompanied by the following:
 - 4.2.1 A DUI/DWAI Referral Summary from a Level II Agency indicating that a Level II Program was begun and successfully completed after the date of the last alcohol or drug violation under Title 42; and
 - 4.2.2 Payment of the reinstatement fee.

SECTION 5. AGENCIES DELIVERING LEVEL II SERVICES

- 5.1 Agencies providing Level II Programs must be licensed by the OBH pursuant to § 42-4-1301.3, C.R.S. (2015).
- 5.2 The Affidavit of Enrollment form shall be fully completed by the Level II Agency and the person seeking enrollment, including the Estimated Date of Completion, and a copy must be retained by the Level II Agency. The Department will not accept an incomplete Affidavit of Enrollment. The Department may accept an approved electronic equivalent submitted through the TMS.
- 5.3 Level II Agencies are responsible for submitting evidence of program completion to the Department. Evidence of program completion should be submitted through TMS or a DUI/DWAI Referral Summary (OBH form).
- 5.4 If a client changes Level II Agencies for any reason, the new Level II Agency shall advise the client to file a new Affidavit of Enrollment with the Department, and the new Level II Agency shall submit a notice of the enrollment through TMS.
- 5.5 A Level II Agency that discharges a client shall report the discharge to the Department within 10 business days.
- 5.6 Level II Agencies shall utilize the TMS to provide reports to the Department on enrollments as well as client status including discharges. The quarterly report requirement referenced in § 42-2-144, C.R.S. (2015) is now satisfied by TMS, which provides daily updates electronically to the Department.

SECTION 6. THE DEPARTMENT'S RESPONSIBILITIES

- 6.1 The Department will maintain the Affidavit of Enrollment form on the Department's web site.
- 6.2 The Department will only accept an Affidavit of Enrollment submitted by a Level II Agency currently licensed by OBH.

SECTION 7. OBH'S RESPONSIBILITIES:

- 7.1 OBH will notify the Department of any additions, deletions, or changes in name, agency ID number, license status, or address of a Level II Agency, and include the effective date of the change.

RULE 13 RULES FOR ACCESS TO AND USE OF IMAGES AND IMAGE COMPARISON TECHNOLOGY

Basis: The statutory basis for this rule is section 42-2-114(1)(a)(IV) and (V), C.R.S.

Purpose: This rule establishes the requirements for access to and use of facial images filed with, maintained by, or prepared by the Department and access to and use of image comparison technology, and limits such access and use to authorized agencies in support of their official functions.

1.0 Definitions

- 1.1 "Image" means a photograph, electronically stored photograph, or digitized photograph showing the face of the licensee, maintained by, or prepared by the Department.
- 1.2 "Image Comparison Technology" means any technology that is utilized to compare biometric data including facial images.

2.0 Permitted Access and Use

- 2.1 The Department shall permit access and use of images only as provided in subsection 42-2-114(1)(a)(IV), C.R.S.
- 2.2 The Department shall permit access and use of image comparison technology only as provided in subsection 42-2-114(1)(a)(V), C.R.S.

3.0 Procedure

- 3.1 An agency authorized in accordance with section 2.0 above, may request access to and/or use of images or image comparison technology. Such request shall be submitted to the Department in a format supplied by the Motor Vehicle Investigations Unit.

RULE 14 CONTRACTS FOR THE BULK ELECTRONIC TRANSFER OF DEPARTMENT INFORMATION

Authority

This rule is promulgated in accordance with the State Administrative Procedures Act, section 24-4-101 et seq., C.R.S. and adopted pursuant to the authority in sections 42-1-204 C.R.S. and 42-1-206(3.7).

Scope and Purpose

- A. This rule governs annual contracts between the department and vendors and primary users for the purpose of establishing, regulating, and maintaining the bulk electronic transfer of information.
- B. This rule does not apply to any federal, state, or local governmental agency that receives Data directly from the department.

1.0 Definitions

“Data” means a subset of Information.

“Information” means the total of all files, updated files, or portions thereof, that the department is permitted by law to release through a bulk electronic transfer.

“Sub-Vendor” means any person who enters into an agreement with a vendor to receive Data. A primary user of Data may also be a Sub-Vendor.

2.0 Contract Requirements

- A. The department will not transfer Information to a vendor or primary user unless the vendor or primary user has executed a contract with the department in accordance with section 42-1-206(3.7), C.R.S.
- B. A contract between the department and a vendor shall include provisions that ensure that no Data will be transferred to a Sub-Vendor unless the Sub-Vendor has provided the vendor, and the vendor has approved, a form, DR 2489, Requestor Release and Affidavit of Intended Use, and has agreed that it will not use the Data in a manner prohibited by law.

RULE 16 RULES FOR EXCEPTIONS PROCESSING

Basis, Purpose and Statutory Authority:

The statutory bases for this regulation are sections 13-15-101(5) (a), 13-15-102, 24-4-103, 42-1-204, 42-1-230, 42-2-107, 42-2-302 and 42-2-136 C.R.S. This regulation applies to documents issued under Title 42, Article 2, Parts 1, 2, 3, and 5.

The purpose of this rule is to set forth regulations for an Exceptions Process and identify the alternate documents the Department will accept. Exceptions Processing is the procedure the Department has established for persons who are unable, for reasons beyond their control, to present all the necessary documents required for a Colorado or Colorado Road and Community Safety Act driver's license, instruction permit, or identification card, and must rely on alternative documents. For applicants who are U.S. citizens, Exceptions Processing allows for alternative documents to be presented that establish identity, date of birth, and U.S. citizenship in lieu of lawful presence. For applicants who cannot demonstrate lawful presence or for applicants who can demonstrate temporary or permanent lawful presence, Exceptions Processing allows for alternative documents to be presented that establish identity, and date of birth. For applicants who are homeless, Exceptions Processing allows for an alternative to establish residency.

1.0 Definitions

- 1.1 Applicant – Any natural person applying to the Department for a Colorado license or identification card, or a CO-RCSA document.
- 1.2 CO-RCSA – The Colorado Road and Community Safety Act, section 42-2-501, C.R.S.
- 1.3 Department – The Colorado Department of Revenue.
- 1.4 Document – An original document certified by the issuing agency, an amended original document certified by the issuing agency, or a true copy certified by the issuing agency, excluding miniature, wallet sized, or photocopies of documents.
- 1.5 Exceptions Processing – The procedure the Department has established for persons who are unable, for reasons beyond their control, to present all necessary documents and must rely on alternative documents to establish identity, date of birth, or U.S. citizenship in lieu of lawful presence.
- 1.6 Full Legal Name – The applicant's first name, middle name(s), last name or surname, without use of initials or nicknames, as it appears on the applicant's documents presented upon application.
- 1.7 Hearing – Hearing before a Department Administrative Hearing Officer.
- 1.8 Identification Card – A document issued by a Department of Motor Vehicles or its equivalent that contains the applicant's full legal name, full facial digital photograph, date of birth, and sex but does not confer upon the bearer the right to operate a motor vehicle.
- 1.9 Identity – The verifiable characteristics that when taken together make a person unique and identifiable. Evidence of identity includes proof of name, date of birth, and physical characteristics, including a verifiable photograph.
- 1.10 Incomplete Application – An application that does not satisfy all the federal and state requirements for issuance of a Colorado driver's license, instruction permit, or identification card, or for issuance of a CO-RCSA identification document.

- 1.11 Lawful Presence – For the purposes of this rule, the status of a person who demonstrates U.S. citizenship.
- 1.12 License – A driver's license, minor driver's license, or instruction permit.
- 1.13 Minor Spelling Inconsistencies – Slight variations in the spelling of a name such that the variations are similar in appearance or produce a phonetically similar or identical sound as pronounced.
- 1.14 SSOLV – The Social Security Online Verification system managed by the Social Security Administration.
- 1.15 Temporary Lawful Presence – A person whose authority to lawfully remain in the United States is temporary and who qualifies for a temporary identification document card.

2.0 Exceptions Processing Procedures

- 2.1 An applicant who has applied for a driver's license, instruction permit, or identification card and was unable to provide the required documents may request Exceptions Processing after being issued a Notice of Incomplete Application.
- 2.2 For applicants who are U.S. citizens, Exceptions Processing shall only be used to establish identity, date of birth, and U.S. citizenship in lieu of lawful presence.
- 2.3 For applicants with permanent residency status and applicants who are applying for an identification document pursuant to CO-RSCA, Exceptions Processing shall only be used to establish identity and date of birth.
- 2.4 If an applicant submits any source document that reflects a name differing from the applicant's full legal name (for example through marriage, adoption, court order or other mechanism permitted by state law or regulation), the Department shall require evidence of the name change through the presentation of documents issued by a court, governmental body, or other entity as determined by the Department.
- 2.5 The Department may resolve minor spelling inconsistencies in, or slight misspellings of, the spelling of a name through Exceptions Processing if the totality of the evidence gathered demonstrates the applicant's identity and the resolution is not contrary to the public interest.

2.6 Exceptions processing to establish identity and date of birth for U.S. citizens.

- 2.6.1 The following documents or combination of documents may be used to establish an applicant's identity and date of birth:
 - 2.6.1.1 A U.S. Passport expired no more than 10 years.
 - 2.6.1.2 A driver's license, instruction permit, or identification card issued by any state, including a state that does not require proof of lawful presence to obtain such document, that either has not expired or that expired within the last 10 years.
 - 2.6.1.3 A military identification card or common access card expired no more than 10 years issued by the U.S. Department of Defense that bears a photograph of the applicant. Such identification cards include active duty, retiree, National Guard, and dependent identification cards.
 - 2.6.1.4 A life, health, or other insurance record that bears the applicant's full legal name, date of birth, and place of birth.

- 2.6.1.5 An identification card issued within the last 20 years by the Bureau of Indian Affairs or by a federally recognized Native American Tribe, and verified by the issuing authority, that bears a photograph of the applicant, provided the first and last name and date of birth match the first and last name and date of birth on the document presented by the applicant.
- 2.6.1.6 A Veteran's Administration card that bears a photograph of the Applicant and was issued within the last 20 years.
- 2.6.1.7 An identity card issued by the Federal Bureau of Prisons or any State Department of Corrections, verified by the issuing authority, provided the first and last name and date of birth match the first and last name and date of birth on the document presented by the applicant.
- 2.6.1.8 A valid individual Colorado (issued by the Department) or federal U.S. income tax return, with an applicant's copy of an Internal Revenue Service form W-2 or 1099. Validity shall be determined using the SSOLV system. If the social security number on the document provided is not validated by the SSOLV system, then the document shall be deemed invalid.
- 2.6.1.9 A Department record of a driver's license, instruction permit, or identification card that contains the applicant's facial digital photograph, signature, and fingerprint provided the image, signature, and fingerprint match those of the applicant. For the applicant to utilize this provision and for the Department to access the record, the applicant must provide either their Social Security Number or a document identified in sections 2.7.1.1. The Social Security Number or the information on the document must match the information on the Department's record and be verified with the SSOLV.
- 2.6.1.10 An Affidavit of Identity that includes the name or names by which the applicant is known.
 - 2.6.1.10.1 The affiant must present the affidavit in person, provide identification, and sign the affidavit in the presence of a Department employee.
 - 2.6.1.10.2 The affiant must be an employee of a government or non-profit agency registered by the Department with proof of agency affiliation.
 - 2.6.1.10.3 The Affidavit of Identity shall be used for applicants who can demonstrate U.S. Citizenship.
- 2.6.1.11 Any document that is secure and verifiable, pursuant to section 24-72.1-102(5), C.R.S., as determined by the Department, which establishes evidence of the applicant's identity or date of birth.

2.7 Exceptions processing for U.S. citizens using alternate documents to establish U.S. citizenship in lieu of lawful presence.

- 2.7.1 An applicant may use alternative documents to establish lawful presence, but only if the documents demonstrate U.S. citizenship.
 - 2.7.1.1 The following documents or combination of documents may be accepted in support of an applicant seeking to establish U.S. citizenship:

- 2.7.1.1.1 A certified Order of Adoption of the applicant bearing the seal or certification of the court of any state, political subdivision, or territory of the United States, or a certified Order of Adoption of that applicant bearing the seal or certification of the court where a valid adoption took place abroad, so long as the same adoption was the basis of the applicant's admission into the United States as a legal permanent resident. Any adoption decree must include the date and location of the adoptee's birth.
- 2.7.1.1.2 A U.S. passport expired no more than 10 years.
- 2.7.1.1.3 A city issued birth certificate, hospital birth record, religious records (such as baptismal records) that include the name and date of birth.
- 2.7.1.1.4 Any of the documents listed in 2.6.1 that include a social security number may be used to verify a social security number.
- 2.7.1.1.5 Any secure and verifiable document that may serve to provide evidence of the applicant's lawful presence, if the document also demonstrates U.S. citizenship.

2.8 Exceptions processing to establish identity and date of birth for non-citizens with permanent lawful presence.

- 2.8.1 The following documents or combination of documents may be used to establish an applicant's identity and/or date of birth:
 - 2.8.1.1 A driver's license, instruction permit, or identification card issued by any state, including a state that does not require proof of lawful presence to obtain such document, that either has not expired or that expired within the last 10 years.
 - 2.8.1.2 A military identification card or common access card expired no more than 10 years issued by the U.S. Department of Defense that bears a photograph of the applicant. Such identification cards include active duty, retiree, National Guard, and dependent identification cards.
 - 2.8.1.3 A life, health, or other insurance record that bears the applicant's full legal name, date of birth, and place of birth.
 - 2.8.1.4 A Veteran's Administration card that bears a photograph of the Applicant and was issued within the last 20 years.
 - 2.8.1.5 An identity card issued by the Federal Bureau of Prisons or any State Department of Corrections, provided the first and last name and date of birth match the first and last name and date of birth on the document presented by the applicant.
 - 2.8.1.6 A valid individual Colorado or federal income tax return, with an applicant's copy of an Internal Revenue Service form W-2 or 1099. Validity shall be determined using the SSOLV system. If the social security number on the document provided is not validated by the SSOLV system, then the document shall be deemed invalid.

2.8.1.7 A Department record of a driver's license, instruction permit, or identification card that contains the applicant's full facial digital photograph, signature, and fingerprint provided the image, signature, and fingerprint match those of the applicant. For the applicant to utilize this provision and for the Department to access the record, the applicant must provide either their Social Security Number or a document identified in sections 2.7.1.1. The Social Security Number or the information on the document must match the information on the Department's record.

2.8.1.8 Any document that is secure and verifiable pursuant to section 24-72-1-102(5), as determined by the Department, which establishes evidence of the applicant's identity or date of birth.

2.9 Exceptions processing to establish identity and date of birth for applicants who cannot demonstrate lawful presence or applicants who can demonstrate temporary lawful presence.

2.9.1 The following documents or combination of documents may be used by an applicant to establish identity and/or date of birth:

2.9.1.1 A driver's license, instruction permit, or identification card issued by any state, including a state that does not require proof of lawful presence to obtain such document, that has not expired or that has expired within the last ten years.

2.9.1.2 A military identification card or common access card issued by the U.S. Department of Defense that contains a photograph of the applicant that has expired within the previous 10 years. Such identification cards include active duty, retiree, National Guard, and dependent identification cards.

2.9.1.3 A Veteran's Administration card issued within the last 20 years that bears a photograph of the applicant.

2.9.1.4 An identification card issued by the Federal Bureau of Prisons or any State Department of Corrections provided that the first and last name and date of birth match the first and last name and date of birth on the document presented by the applicant.

2.9.1.5 A life, health, or other insurance record that bears the applicant's name, date of birth, and place of birth

2.9.1.6 Any other document that is secure and verifiable pursuant to section 24-72.1-102(5), C.R.S., which may serve to provide evidence of the applicant's identity or identity as determined by the Department.

2.10 If the totality of evidence gathered through Exceptions Processing establishes the applicant's identity, date of birth, and U.S. citizenship (where applicable), the applicant shall be issued a Colorado or CO-RCSA driver's license, instruction permit, or identification card.

2.11 If the totality of evidence gathered through Exceptions Processing does not reasonably establish the applicant's identity, date of birth, and U.S. citizenship (where applicable), the applicant shall be issued a Notice of Denial and thereafter may request a hearing with Hearings Section of the Department.

- 2.12 Proof of residency documents are waived, if an applicant provides a letter on letterhead, signed by the director of a homeless shelter, certifying that the individual is homeless and stays at the shelter.

3.0 Process for Translation

- 3.1 All documents provided to the Department by the applicant shall be in English or have been translated into English.
- 3.2 The original and corresponding translated documents shall be presented together at the time of application.
- 3.3 All documents translated must have the following included at the end (must be typed or electronically printed on the same page as the translation, not on separate pieces of paper or the translation will not be accepted by the Department):
- 3.3.1 An attestation that states: "I, [insert translator's full name], affirm that the foregoing is a complete and accurate translation from [insert foreign language] to the English language to the best of my ability. I further affirm that I am fully competent to translate from [insert foreign language] to the English language and that I am proficient in both languages" and
- 3.3.2 The number and state of issuance of the translator's unexpired driver's license, instruction permit, or identification card.
- 3.4 All translated documents and information required by rule 3.3 shall be included in the applicant's permanent motor vehicle record.
- 3.5 Applicants are responsible for all costs of translation.

4.0 Denial of Application

- 4.1 Nothing in this regulation shall be construed to prevent the Department from denying an application on the basis that an applicant has presented documents that are fraudulent or that are not secure and verifiable pursuant to section 24-72.1-102(5), C.R.S.
- 4.2 Nothing in this regulation restricts or prohibits the Department from verifying any documents presented by an applicant.
- 4.3 An application shall be denied if the applicant presents fraudulent or altered documents or commits any other fraud in the application process. If the authenticity of a document cannot be verified, then the application may be considered incomplete and additional documentation may be required.

5.0 Hearing and Final Agency Action

- 5.1 An applicant who has received a Notice of Denial may, within 60 days of the date of the Notice of Denial, request a hearing on the denial by filing a written request for hearing with the Hearings Section of the Department at 1881 Pierce St. #106, Lakewood, CO 80214.
- 5.2 Hearings shall be held in accordance with the provisions of the State Administrative Procedure Act and the provisions of Title 42 of Colorado Revised Statutes.
- 5.3 The only issue at hearing shall be whether the applicant has satisfied federal and state requirement for the issuance of a Colorado or CO-RCSA driver's license, instruction permit, or identification card.

- 5.4 The hearing officer shall issue a written decision. If the hearing officer finds that the applicant has not satisfied state and federal requirements for the issuance of a Colorado or CO-RCSA driver's license, instruction permit, or identification card, then the denial shall be sustained. If the hearing officer finds that applicant has satisfied state and federal requirements for the issuance of a Colorado or CO-RCSA driver's license, instruction permit, or identification card, then the denial shall be rescinded and the Department shall issue a Colorado or CO-RCSA driver's license, instruction permit, or identification card.
- 5.5 The decision by the hearing officer shall constitute final agency action, and is subject to judicial review as provided by section 24-4-106, C.R.S.

RULE 17 FEES FOR TESTING AND FOR ISSUANCE OF RECORDS, LICENSES, PERMITS, AND IDENTIFICATION DOCUMENTS BY THE COLORADO DEPARTMENT OF REVENUE

BASIS, PURPOSE, and STATUTORY AUTHORITY

The purposes of this rule are to establish fees collected by the Department of Revenue, Division of Motor Vehicles for testing, and for the issuance of records, licenses, permits, and identification documents. The statutory bases for this regulation are sections: 24-4-103, 24-72.1-103, 42-1-206 (2), 42-2-107, 42-2-114, 42-2-114.5, 42-2-117, 42-2-118, 42-2-127.7, 42-2-133, 42-2-306, and 42-2-406, C.R.S.

* Section (3.15) of this rule addresses a typographical error in section 42-2-114.5, C.R.S. Section 42-2-114.5 (2)(o), C.R.S., incorrectly cites section 42-2-406 (3), C.R.S. The correct citation is section 42-2-406 (5), C.R.S.

1.0 DEFINITIONS

- 1.1 **CDL:** Commercial Driver's License.
- 1.2 **C.R.S.:** Colorado Revised Statutes.
- 1.3 **Department:** Colorado Department of Revenue.
- 1.4 **Driver's License:** A driver's license, minor driver's license, or instruction permit.
- 1.5 **Identification Card:** For the purpose of this rule, a document issued by the Division of Motor Vehicles or its equivalent that contains the applicant's full legal name, full facial digital photograph, date of birth, and gender, but does not confer the right to operate a motor vehicle.

2.0 APPLICABILITY

- 2.1 This Rule applies to specific fees collected on or after the effective date of this rule.

3.0 FEES

- 3.1 The fee for a driving record under section 42-1-206 (2), C.R.S. is nine dollars (\$9.00).
- 3.2 The fee for a certified driving record under section 42-1-206 (2), C.R.S. is ten dollars (\$10.00).
- 3.3 The application fee for an instruction permit under section 42-2-107, C.R.S. is sixteen dollars and eighty cents (\$16.80).
- 3.4 The fee for a driver's license or minor driver's license under section 42-2-114 (2) (a) or (4) (a), C.R.S., respectively, is:

- 3.4.1 Twenty-six dollars (\$26.00) beginning July 1, 2016 but before July 1, 2017;
- 3.4.2 Twenty-seven dollars (\$27.00) beginning July 1, 2017 but before July 1, 2018;3.4.3.
- 3.4.3 Twenty-eight dollars (\$28.00) beginning July 1, 2018.
- 3.5 The fee for retaking (after initially failing) either of the following examinations under section 42-2-114.5(2)(e), C.R.S. is:
 - 3.5.1 Knowledge test - eleven dollars and fifteen cents (\$11.15); and
 - 3.5.2 Demonstration of skills ability - fifteen dollars (\$15.00).
- 3.6 The fee for a duplicate permit or minor driver's license under section 42-2-117 (1), C.R.S. is:
 - 3.6.1 Twelve dollars (\$12.00) for the first duplicate; and
 - 3.6.2 Sixteen dollars (\$16.00) for subsequent duplicates.
- 3.7 The fee for a driver's license extension under section 42-2-118 (1) (b) (I), C.R.S. is six dollars and fifty cents (\$6.50).
- 3.8 The fee for the return of a license under section 42-2-127.7 (4) (d) (II), C.R.S. is six dollars (\$6.00).
- 3.9 The fee for a replacement of a surrendered license under section 42-2-133 (2), C.R.S. is six dollars (\$6.00).
- 3.10 The fee for issuing or renewing an identification card under section 42-2-306 (1) (a), C.R.S. is eleven dollars and fifty cents (\$11.50).
- 3.11 The fee for reissuance of an identification card that has been cancelled or denied under section 42-2-306 (1) (b), C.R.S. is twenty dollars (\$20.00).
- 3.12 The fee for issuance of a commercial driver's license by the Department under section 42-2-406 (1) and (2), C.R.S. is fifteen dollars and fifty cents (\$15.50).
- 3.13 The fee for the Department's administration of a driving test for licensing a commercial driver under section 42-2-406 (3) (b), C.R.S. is one hundred twenty dollars (\$120.00).
- 3.14 The annual license fee for a commercial driver's license testing unit's license under section 42-2-406 (4), C.R.S. is:
 - 3.14.1 three thousand ninety-four dollars (\$3,094.00) for the initial license; and
 - 3.14.2 one thousand fifty-two dollars (\$1,052.00) for each subsequent annual license renewal.
- 3.15 The annual license fee for a commercial driver's license driving tester under section 42-2-406(5), C.R.S. is:
 - 3.15.1 one hundred forty-eight dollars (\$148.00) for the initial license; and
 - 3.15.2 one hundred forty dollars (\$140.00) for each subsequent annual license renewal.

Editor's Notes

History

Rule 8 recodified from 1 CCR 204-3 eff. 06/30/2014.

Rules 1, 6, 16 emer. rules eff. 08/01/2014.

Rules 1, 6, 16 eff. 11/14/2014.

Rule 8 emer. rule eff. 03/15/2015.

Rule 7 recodified from 1 CCR 204-12 eff. 06/30/2015. Rule 8 eff. 06/30/2015.

Rule 1 section 4.0, rule 17 eff. 07/15/2015.

Rule 5 recodified from 1 CCR 201-17 eff. 08/10/2015.

Rule 7 sections A, I(20) eff. 09/30/2015.

Rule 13 recodified from 1 CCR 204-24 eff. 01/30/2016.

Rule 1 section 4.0, rule 17 emer. rules eff. 07/01/2016.

Rule 12 recodified from 1 CCR 204-23 eff. 08/14/2016.

Rule 5 eff. 08/30/2016.

Rule 1 section 4.0, rule 17 eff. 09/14/2016.

Rule 11 recodified from 1 CCR 204-17 eff. 10/30/2016.

Rule 9 recodified from 1 CCR 204-20 eff. 01/30/2017.

Rule 14 recodified from 1 CCR 204-25 eff. 11/14/2017.

Rules 7, 9 eff. 01/14/2018.

Rule 8 eff. 05/15/2018.

Rule 1 eff. 06/30/2018.

Rule 7 eff. 09/30/2018.

Rule 1 eff. 12/30/2018. Rule 2 recodified from 1 CCR 204-16, Rule 3 recodified from 1 CCR 204-26 eff. 12/30/2018.

Rule 6 emer. rule eff. 01/01/2019.