

# DEPARTMENT OF REVENUE

## Division of Motor Vehicles

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

#### 1 CCR 204-12 (Recodified as 204-30 Rule 7) Permanent Rule

#### 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), 42-2-403, 42-2-114.5, 42-2-406 (3 ~~through -7~~), 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 ~~ing~~ 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), 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 t~~The Federal Regulations ~~incorporated or referenced by this rule are~~ published in the Code of Federal Regulations ("CFR"), Title 49, parts 171, 172, and 300-399 (October 1, 2014). 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) 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 endorsements upon the highways with a driver that possesses a CDL with the same class and/or endorsements or higher, as the- CLP holder.
- (3) CDL Vehicle Class: A group or type of vehicle with certain operating characteristics.
- (4) C.R.S.: Colorado Revised Statutes.
- (5) 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 ~~part 386~~, that a person is no longer qualified to operate a CMV under 49 CFR ~~part 394~~; or the loss of qualification that automatically follows conviction of an offense listed in 49 CFR ~~§383.51~~.

- (6) Designed to Transport: The manufacturer's original rated capacity for the vehicle.
- (7) 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 ~~§383.93(2)-h~~)
  - (b) P = CDL Passenger vehicle
  - (c) N = Tank vehicles
  - (d) H = Hazardous materials (Not allowed on a CLP per 49 CFR ~~§383.93(2)~~)
  - (e) S = School buses
  - (f) X = Combination of tank vehicle and hazardous materials (Not allowed on a CLP per 49 CFR ~~§383.93(2) on a, d, f, g, and h~~)
  - (g) M = Motorcycle (not allowed on a CLP per 49 CFR ~~§383.93(2)-e~~)
  - (h) 3 = Three wheel motorcycle (not allowed on a CLP per 49 CFR ~~§383.93(2)-h~~)
- (8) Exemptions: Regulatory relief given to a person or class of persons normally subject to regulations without the exception.
- (9) FMCSA: Federal Motor Carrier Safety Administration is an agency within the USDOT.
- (10) FMCSR: Federal Motor Carrier Safety Regulations (49 CFR ~~parts 300-399~~).
- (11) CDL Skills Test: Means "driving tests" as ~~provided~~referenced in section 42-2-402, C.R.S. and consists of the Vehicle Inspection, Basic Control Skills, and the Road Test.
- (12) GCWR: Gross Combination Weight Rating is the value specified by the manufacturer as the maximum loaded weight of the combination vehicle.
- (13) 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.
- (14) 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.
- (15) 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.
- (16) Interstate Driver: A CDL holder authorized to cross state lines and transport interstate commerce while operating a CMV.
- (17) Intrastate Commerce: Trade, traffic, or transportation in any state that is not described in the term "interstate commerce."
- (18) Knowledge Test: A written test that meets the federal standards contained in 49 CFR ~~§383.111.H~~
- (19) Non-Profit: An organization filing with the United States Code 26 USC Section 501(c).

- (20) CDL Passenger Vehicle: For the purposes of this rule, a passenger vehicle designed to transport 16 or more passengers, including the driver.
- (21) Paved Area: For the purpose of this rule, 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.
- (22) 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.
- (23) 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 ~~§383.95(g) and 383.153(a)(10)(viii)~~)
  - (j) Z = Restricted from operating a CMV with full airbrakes
- (24) 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 ~~part 394~~, and is required to be medically examined and certified pursuant to 49 CFR ~~§394.45~~.
  - **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 ~~§390.3(f), 394.2, 394.68 or 398.3~~ from all or parts of the qualification requirements of 49 CFR ~~part 394~~, and is therefore not required to be medically examined and certified pursuant to 49 CFR ~~§394.45~~.
  - **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.
- (25) USDOT: United States Department of Transportation.
- (26) CSTIMS: Commercial Skills Test Information Management System. Web-based system used by states ~~use~~ to manage the CDL Skills Test portion of the CDL process.

## 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 ~~§383.73(a)(2)(i)~~).

(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 ~~§383.71(b)(1)(III-IV)~~):

- **Non-excepted interstate.**
- **Excepted interstate.**
- **Non-excepted intrastate.**
- **Excepted intrastate.**

(3) Each applicant must meet the medical and physical qualifications under 49 CFR ~~§Part 391.41~~. 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 ~~§383.71(h)(1 through 3)~~).

## 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 ~~§383.71(b)(1)(iii-iv)~~)~~. 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 ~~§390.5~~; or

~~\*(e)~~ — 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 ~~§171.8~~ or commodities with a hazard class

identified in 49 CFR ~~§172.504 Table 1~~, or commodities subject to the "Poison by Inhalation Hazard" shipping description in 49 CFR ~~RF-§172.203(m)(3)~~.

- (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-§383.94)~~.
  - (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 ~~§383.94~~).
  - (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 ~~permit~~ 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 5<sup>th</sup> wheel type coupling system (49 CFR ~~§383.95(d)~~).
  - (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 ~~§383.153(a)(10)(viii), 383.95(g)~~).
- (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 ~~§383.3~~. Applicability: ~~a~~ authorizes the state to grant certain groups exceptions from the CDL requirements.
  - (a) FMCSR – 49 CFR ~~§383.3 c~~: Exception for individuals who operate CMV's for military purposes.
  - (b) FMCSR – 49 CFR ~~§ 383.3 (d)(1 and 2)~~: 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 CMV's 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 ~~§383.3 (d)(3)~~: 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 ~~§383.3 (f)~~: Restricted CDL for certain drivers in farm-related service industries.
- (2) FMCSR 49 CFR ~~§391.2~~ specifies the exceptions to the physical qualifications for individuals engaged in custom harvesting operations ~~in FMCSR 49 CFR §391.2.~~

## **H. ENTITY ELIGIBLE TO APPLY FOR A 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 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 CMV's 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. 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 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(s) ~~on applicant's~~ instruction permit or CDL.
  - (12) Once a new tester candidate has ~~passed~~ the required tester training course, the testing unit must ensure that the new tester candidate(s) applies for his/her Third Party Testers license and completes the fingerprint/background check application within thirty (30) days of completing and passing the tester training course. The licensing fees are the responsibility of the tester candidate.
  - (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 the Commercial Skills Test Information Management System (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 ~~be notified~~ 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 a minimum one (1) day notification by the testing unit.

- (a) The testing unit is not permitted to schedule an applicant more than once within any three (3) day period.
- (b) 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 the driving tester ~~must~~ only issues the Colorado CDL Driving Skill Test Completion form (DR2736) for the class of vehicle in which the applicant has successfully completed the CDL Skills Test.

(16) The testing unit will allow CDL Skills Test 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 hours.

(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.

(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 Test in compliance with these rules and regulations;

(d) allow, at least on an annual basis, Department employees to take the tests administered by the testing unit as if the state employee were an applicant, or the Department may test a sample 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 items of the contract or the rules and regulations; ~~and~~

(f) ensure that driving testers who test applicants from outside the driving tester's unit obtain the AAMVA CDL third party tester certification after completing one (1) full year of testing and renew their certification by December 31st of each year, as required by the Department. AAMVA membership fees are the responsibility of the driving tester.

(20) Charge fees only in accordance with section 42-2-406, C.R.S. A driving tester and a testing unit must only charge for tests administered.

(a) The fees for the administration of the CDL Skills Test for commercial drivers must not exceed the sum of two hundred twenty-five dollars (\$225.00).

(b) The fees for the administration of driving skill tests for commercial drivers to any 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 must not exceed one-hundred dollars (\$100.00) .

(c) The fees for the administration of a retest for a commercial driver after failing all or any of the driving tests must not exceed two hundred twenty-five dollars (\$225.00).

(d) The fees for the administration of a retest for commercial drivers to any 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 must not exceed one hundred dollars (\$100.00).

(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 must make annual application for renewal of the unit's testing license and individual driving 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) of the vehicle being used for testing.

(a) The driving tester must ensure that the instruction permit has been held 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.

(10) Prior to issuing a Colorado CDL Driving Skill Test Completion Form (DR2736), the driving tester must ensure that the applicant has in his/her immediate possession, a valid USDOT medical card, and a valid CLP for operating the class and endorsement(s) of vehicle being used for testing. The driving tester must also ensure the applicant has in his/her immediate possession a valid current Driver's License.

(11) The driving tester must administer the CDL Skills Test to applicants in a vehicle equal to or lower in class and/or endorsement(s) than the applicant has on his or her CLP.

(12) The driving tester must administer the CDL Skills Test only on Department approved testing areas and routes.

- (13) The driving tester must administer all three portions of the CDL Skills Test during daylight hours.
- (14) The driving tester must ensure that the vehicle in which the CDL Skills Test will be administered is in proper working and mechanical order.
- (15) A driving tester removed from performing a safety sensitive function, must not perform any functions under the CDL Third Party Testing Program.
- (16) 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.
- (17) The driving tester must be employed by a licensed testing unit prior to attending a new CDL Third Party tester's training class.
- (18) The driving tester must inform the applicant that he/she may be randomly selected for a retest as mandated by 49 CFR ~~§ 383.75(a)(2)(iv)~~. The driving tester must ensure that the applicant reads and signs the DR2736 (Colorado CDL Driving Skill Test Completion form).
- (19) 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 ~~it~~his/her behalf. The driving tester must keep all CDL records separate for each testing unit. License fees must apply.
- (20) 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.
- (21) 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.
- (22) The driving tester must only issue the Colorado CDL Skills Test Completion form (DR2736) for the class of vehicle in which the applicant has successfully completed the CDL Skills Test.
- (23) Upon leaving a testing unit, the driving tester's license may be transferred to another testing unit within three (3) months. If the driver tester is not employed 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~~must apply and are the responsibility of the tester.
- (24) 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 is large enough to administer all of the required CDL basic control exercises.
  - (a) Solid painted lines and traffic cones must be used to mark 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 must be 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 vehicle control maneuvers.
- (ii) Testing on dirt, sand, or gravel is not allowed.
- (c) 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.

## M. RECORDING AND AUDITING REQUIREMENTS

- (1) An applicant who has successfully completed the ~~CDL Driving Skill Tests~~ must be issued the "Colorado CDL Driving Skill Test Completion" form (DR2736). The testing unit and/or driving tester must retain the carbon copy of this form and attach it to all of the applicant's score form(s) for the testing unit's records. This form is not authorization to the applicant to drive unsupervised.
- (2) The CDL Compliance Unit must be notified in writing after an applicant fails the road test portion of the ~~CDL Driving Skills Test~~. The testing unit or testers must fax or send electronically the failed road test (front and back) score form to the CDL Compliance Unit immediately upon failure.
- (3) 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, 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).
- (4) A testing unit must enter all (pass and fail) CDL Skills Test results into the CSTIMS (Commercial Skills Test Information Management System) within 24 hours of completion of the test.
- (5) 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.
- (6) 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 must not be held liable during retests for any damage, injury, or expense incurred.
- (7) If the applicant tested in his/her own vehicle, the applicant ~~must~~ 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 ~~§ 383.75(8)(v)~~. 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.
  
- (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-testing u~~nit 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 ~~must~~ 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 ~~must be~~ 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, t~~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.

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## Editor's Notes

### History

Entire Rule Eff. 11/30/2008.

Entire Rule Eff. 12/15/2011.