

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

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

**8 CCR 1507-1**

**STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE**

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

Amendments being proposed to 8 CCR 1507-1 include:

- Adopting updated editions of the FMCSRs and CVSA Inspection and Out-of-Service Criteria;
- Updating references to websites and other applicable sections of the Colorado State Patrol;
- Further clarifying requirements related to appeals of Civil Penalties; and
- Updating references for all incorporated or adopted guidelines, publications and standards, and any applicable statutes.

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

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Colonel Matthew C. Packard  
Chief, Colorado State Patrol

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Date of Adoption

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DIVISION OF STATE PATROL**

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

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

**2.1.     COMPLIANCE WITH 8 CCR 1507-25 AS APPROPRIATE.** In addition to this rule, any person who transports hazardous materials as defined in 49 CFR 171.8 and §42-20-103 (3), CRS, and/or nuclear materials, as defined in §42-20-402 (3) (a) - (c), CRS, must operate consistent with 8 CCR 1507-25, the CSP Rules and Regulations Concerning the Permitting, Routing, and Safe Transportation of Hazardous and Nuclear Materials and the Intrastate Transportation of Agricultural Products in the State of Colorado.

**2.2.     APPROVAL OF TEMPORARY RULE VARIANCE(S).** Provided a variance is not in violation of §42-4-235, CRS, the CSP Motor Carrier Safety Section (MCSS) may consider and grant requests of intrastate commercial motor carriers for temporary variances from these rules.

**MCS 3:**     **GENERAL DEFINITIONS.** The following definitions apply throughout these rules unless otherwise specified. Definitions relevant to these rules are found in Title 49 of the Code of Federal Regulations. These definitions are amended, where necessary, to conform to the Colorado Revised Statutes. Those definitions controlled by the CRS that are generally applicable to these rules are set forth herein.

**3.1.     CDL:** Commercial Driver's License.

- 3.2. **CDOR:** Colorado Department of Revenue.
- 3.3. **CDOT:** Colorado Department of Transportation.
- 3.4. **CDPS:** Colorado Department of Public Safety.
- 3.5. **CFR:** Code of Federal Regulations.
- 3.6. **CHIEF:** Means the Chief of the Colorado State Patrol, or his or her designee as appropriate, unless otherwise specified.
- 3.7. **Commercial Vehicle:** The definition of commercial vehicle will be as set forth in §42-4-235 (1) (a), CRS.
- 3.8. **CRS:** Colorado Revised Statutes.
- 3.9. **CRU:** Colorado State Patrol Central Records Unit.
- 3.10. **CSP:** Colorado State Patrol.
- 3.11. **CVSA:** Commercial Vehicle Safety Alliance.
- 3.12. **Enforcement Official:** The definition of enforcement official will be as it is defined by §§16-2.5-101, 16-2.5-114, 16-2.5-115, and 16-2.5-143, and also as set forth in §42-20-103 (2), CRS.
- 3.13. **FMCSA:** Federal Motor Carrier Safety Administration.
- 3.14. **FMCSR:** Federal Motor Carrier Safety Regulations, AKA 49 CFR 40 - 399 and its appendices.
- 3.15. **GCWR:** Gross Combined Weight Rating.
- 3.16. **GVWR:** Gross Vehicle Weight Rating.
- 3.17. **LLC:** Limited Liability Company or Limited Liability Corporation.
- 3.18. **MCSS:** Colorado State Patrol Motor Carrier Safety Section.
- 3.19. **Motor Carrier:** The definition of motor carrier will be as it is set forth in §42-4-235 (1) (c), CRS.
- 3.20. **MOU:** Memorandum of Understanding.

- 3.21. **OOS:** Out-of-Service.
- 3.22. **PUC:** Public Utilities Commission.
- 3.23. **UFA:** Uniform Fine Assessment.
- 3.24. **USDOT Number:** The number assigned to a motor carrier by the FMCSA. This number can be for intrastate or interstate use, depending upon the information provided by the motor carrier to the FMCSA at the time of application submission or the biannual update.

**MCS 4: AUTHORITY TO INSPECT VEHICLES, DRIVERS, CARGO, BOOKS AND RECORDS.** Authorized enforcement officials will at all times have the authority to inspect commercial vehicles, commercial vehicle drivers, cargo, and any required documents consistent with Part MCS 4 of these rules.

- 4.1. **SAFETY INSPECTIONS.** Enforcement officials who are authorized to perform motor vehicle safety inspections on commercial motor vehicles and drivers, are required to meet the inspector qualifications set forth in §42-4-235 (4) (a) (I), CRS, while performing a Level I North American Standard Safety Inspection.
  - 4.1.1. All enforcement officials performing Level I – VI North American Standard Safety Inspections must maintain the certifications requirements prescribed in the current published CVSA Operations Manual.
- 4.2. **AUTHORITY TO INSPECT.** Authorized enforcement officials have the authority to inspect commercial vehicles, commercial vehicle drivers, cargo, and any required documents, as such documents are applicable to transport by 8 CCR 1507-25 and/or as are set forth in 49 CFR, Subchapter B, Parts 383, 387, 390, 391, 392, 393, 395, 396, 397, and 399, as revised October 1, 2020-2021.
- 4.3. **AUTHORITY TO CONDUCT COMPLIANCE REVIEWS AND SAFETY AUDITS.** CSP enforcement officials who are certified by the FMCSA pursuant to 49 CFR 385, Subpart C, to perform compliance reviews and safety audits have the authority to enter the facilities of and inspect any motor carrier, as defined in §42-4-235 (1) (c), CRS. Inspection includes the review of any required records and supporting documents as may be applicable through 8 CCR 1507-25 and/or as they are identified and defined in 49 CFR, Subchapter B, Parts 40, 380, 382, 383, 385, 387, 390, 391, 392, 393, 395, 396, 397, 399 and Appendix G, revised October 1, 2020-2021.

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

- 5.1. CVSA BYLAWS AS GENERAL INSPECTION GUIDELINES.** Authorized enforcement officials performing safety inspections on commercial vehicles, drivers, and cargo will use as general guidelines the levels, methods of inspections, and OOS criteria found in the CVSA bylaws, as they are revised and effective April 1, 2021-2022.
- 5.2. MINIMUM INFORMATION AND REPORT DISPOSITION.** Authorized enforcement officials will, upon the completion of each inspection, prepare a report which, at a minimum, identifies the inspector, the inspector's agency, the name and address of the motor carrier, the date and time of the inspection, the location of the inspection, the vehicle, and the driver, any defects or violations found, and the disposition of the vehicle. A copy of the inspection report will be provided to the driver or motor carrier.

**MCS 6: STATE ADOPTION OF FMCSR.** All intrastate and interstate motor carriers, commercial vehicles, and drivers thereof, operating within Colorado must operate consistent with the safety regulations detailed within:

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

**49 CFR Appendix G TO SUBCHAPTER B  
OF CHAPTER III**

## Minimum Periodic Inspection Standards

of the FMCSR as the same were in effect on October 1, ~~2020~~ 2021 and published in Title 49 of the CFR, Subtitle B, Chapter III, Parts 200 through 399, with references therein, with modifications as are necessitated by state law and set forth by these rules:

- 6.1. INTRASTATE COMMERCE INCLUDED.** Unless otherwise specified, all references to interstate commerce by the FMCSR also include intrastate commerce for the purposes of these rules.
- 6.2. ENTRY-LEVEL DRIVER TRAINING.** 49 CFR 380.509 (a) is amended to read: “Each employer must ensure each entry-level driver, who first begins operating a commercial motor vehicle requiring a CDL under §42-2-404, CRS, receives the training required by 49 CFR 380.503.”
- 6.3. NEW ENTRANT SAFETY PROGRAM.** 49 CFR 385.301 (b) and (c), through 385.305 and 385.319 (b) through 385.337 are not applicable.
  - 6.3.1.** 49 CFR 385.309 through 385.319 (a), hereafter referred to collectively as the Colorado Intrastate New Entrant Safety Assurance Program, applies to intrastate motor carriers who are beginning in intrastate operations and are required to obtain an intrastate USDOT number from the FMCSA.
  - 6.3.2.** Intrastate motor carriers can confirm if they need a USDOT number and complete an intrastate application online by going to <HTTPS://WWW.FMCSA.DOT.GOV/REGISTRATION/DO-I-NEED-USDOT-NUMBER>.
  - 6.3.3.** All interstate motor carriers beginning operations in Colorado must submit to a safety audit as defined in 49 CFR 385.3. Interstate carriers beginning operations in Colorado must submit to a safety audit consistent with 49 CFR 385.3.
  - 6.3.4.** All intrastate motor carriers beginning operations in Colorado are eligible for the Colorado Intrastate New Entrant Safety Assurance Program. New intrastate carriers may schedule training by contacting the MCSS. A prior interstate safety audit or compliance review will meet the requirement for an intrastate safety audit.
- 6.4. FINANCIAL RESPONSIBILITY (INSURANCE) OF MOTOR CARRIERS.** Pursuant to §42-4-235 (4) (a) (I), CRS, the financial responsibility and insurance provisions of these rules do not apply to commercial vehicles regulated by the PUC. These provisions also do not apply to those commercial vehicles operated

by river outfitters regulated by the Colorado Department of Natural Resources, Division of Wildlife, under 2 CCR 405-3. These noted exceptions aside, 49 CFR 387.1 through 387.17, 387.303, 387.305 and 387.309 are applicable to the operation of commercial vehicles in Colorado with the following exceptions:

**6.4.1.** 49 CFR 387.7 (e) and (g) do not apply.

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

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

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

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

**6.6. AMENDED APPLICABILITY OF FMCSR DEFINITIONS.** The following definitions set forth within 49 CFR 390.5T are hereby amended by these rules:

**6.6.1.** The definitions of “Commercial Motor Vehicle” and “Motor Carrier” do not apply.

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

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

**6.7.1.** USDOT numbers for intrastate motor carriers are processed by the FMCSA.

**6.7.2.** 49 CFR 390.21T (b) is amended through the addition of the following: “Intrastate carriers must mark their vehicles with the assigned intrastate USDOT number, preceded by the letters “USDOT” and followed by the suffix “CO” (e.g.: USDOT 1234567 CO).

**6.7.2.1.** Motor carriers operating in intrastate commerce, not transporting 16 or more passengers (including the driver) or transporting placarded hazardous materials and having a

GVWR or GCWR equal to or in excess of 16,001 lbs., but not in excess of 26,000 lbs., may meet the marking requirements of 49 CFR 390.21T by marking the trailer or secondary unit, if the GVWR of the self-propelled unit itself is less than 16,001 lbs.

**6.7.2.2.** In the interests of public safety, intrastate motor carriers who operate as repossessors as defined within §42-6-146 (4), CRS, operating interstate, are not subject to the marking requirements of 49 CFR 390.21T.

**6.8. AGE OF CDL DRIVERS OPERATING IN INTERSTATE COMMERCE.** 49 CFR 391.11 (b) (1) is amended to read: “Is at least 21 years old if engaged in interstate commerce or transporting hazardous materials of a type or quantity that would require the vehicle to be marked or placarded under 49 CFR 177.823, with the exception of drivers operating interstate pursuant to a waiver issued through the FMCSA Military Pilot Program, or any other approved non-military extension thereof and as recognized consistent with §42-2-404 (4) (b), CRS. All other drivers operating intrastate only must be at least 18 years of age.”

**6.9. AMENDING HOURS OF SERVICE AND APPLICABILITY THEREOF.** The Hours-of-Service regulations set forth within 49 CFR 395 are amended as follows:

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

**6.9.2.** 49 CFR 395.3 or 395.5 do not apply to drivers of either Colorado governmental vehicles or tow trucks working an emergency, as defined in 49 CFR 390.

**6.9.3.** 49 CFR 395.3 does not apply to tow drivers who are towing a vehicle from a public roadway at the request of a public officer or other law enforcement purpose.

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

**6.9.5.** 49 CFR 395.1 (k) is amended to read: “Is conducted during the planting and harvesting seasons within Colorado as determined by the Department of Agriculture to be from January 1 to December 31.”



**6.10. REFERENCES TO FEDERAL AGENCIES TO INCLUDE STATE AGENCIES.**

All references to federal agencies and authorized personnel are to be construed to include the CSP, PUC, and other state or local enforcement agencies having a signed MOU with the CSP and their authorized personnel.

**6.11. FILING OF INFORMATION RELATED TO FMCSR REPORTING**

**REQUIREMENTS.** All motor carrier and driver reporting requirements adopted by 8 CCR 1507-25 and/or referred to in 49 CFR 40, 368, 380, 382, 383, 385, 387, 390, 391, 392, 393, 395, 396, 397, and 399 must be filed with or delivered by mutually agreed upon methods upon request to the MCSS at 15075 S. Golden Rd., Golden, CO., 80401.

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

**6.12.1.** Drivers of intrastate vehicles and vehicle combinations having a GVWR or GCWR of not more than 26,000 lbs., not requiring a CDL to operate, are not subject to 49 CFR 391, Subpart E, Physical Qualifications and Examinations.

**6.12.2.** Vehicles owned and operated by the Federal Government or state government or political subdivision thereof not domiciled in Colorado, not transporting hazardous materials of a type and quantity requiring the vehicle to be marked or placarded under 49 CFR 172.504.

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

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

**MCS 7. TRACTION DEVICES REQUIRED.** Drivers operating a commercial vehicle as defined in CDOT rule 2 CCR 601-14, with the exception of mobile cranes, operated on Interstate 70 between mileposts 133 and 259 from September 1<sup>st</sup> to May 31<sup>st</sup> inclusive, must carry tire chains consistent with the requirements set forth within §42-4-106 (5) (a) (I), CRS. Alternative Traction Devices (ATDs), including tire cables, may also be used as are defined and as use is consistent with 2 CCR 601-14.

**MCS 8. INTRASTATE MEDICAL WAIVERS.** MCSS may grant variances/waivers to drivers unable to satisfy the requirements of 49 CFR 391, Subpart E, consistent with these rules.

- 8.1. APPROVAL OF MEDICAL WAIVERS.** Individual applications requesting a variance/waiver of specific requirements may be approved when the approval of a variance/waiver is supported by the decisions of a certified medical examiner and the documented determination of an appropriate medical professional, combined with the satisfaction of any applicable performance standards, ~~to~~ supporting a decision that a medical condition has no adverse impact on safety.
- 8.2. MEDICAL WAIVER APPLICATION ONLINE.** Medical waiver requirements, submission information, and documents are available online at [HTTPS://WWW.COLORADO.GOV/PACIFIC/CSP/MEDICAL-WAIVERS](https://www.colorado.gov/pacific/csp/medical-waivers). Medical waiver applications may also be requested in person, by fax, or by mail from the MCSS office at 15075 S. Golden Rd., Golden, CO., 80401.
- 8.3. WRITTEN NOTICE OF TERMS AND CONDITIONS.** Medical waiver cardholders are provided written notice of relevant program terms and conditions at the time of card approval and subsequent renewal(s).
- 8.4. DENIAL OF MEDICAL WAIVER APPLICATION.** An application for a medical waiver may be denied if:
- 8.4.1.** The applicant does not currently possess or is not in the process of attaining a state of Colorado CDL;
  - 8.4.2.** The applicant has a medical condition for which a waiver or variance is not available; or
  - 8.4.3.** Either the certified medical examiner or the medical professional fail to complete or certify the required waiver form(s).
  - 8.4.4.** Upon review of relevant motor vehicle operation data available to the CSP at the time of receipt of paperwork to re-issue a medical waiver to an individual having an expired or expiring waiver, the CSP determines that to re-issue a medical waiver to an individual does not promote safety, protect human life, or preserve the highways of this state.
    - 8.4.4.1.** The denial of an application for the re-issue or renewal of a medical waiver to an individual based upon relevant motor vehicle operation data available to the CSP at the time of the receipt of paperwork will be afforded the same appeal rights as a waiver revocation.
  - 8.4.5.** Denial of a medical waiver application will be by written notice from the MCSS.
    - 8.4.5.1.** Medical waiver applications denied as a result of incomplete, insufficient, or ineligible information may be resubmitted at the convenience of an applicant upon correction, completion, or upon meeting requirements of eligibility without prejudice.

- 8.5. MEDICAL WAIVER REVOCATION.** A medical waiver may be revoked where the CSP determines that its' issue does not promote safety, protect human life, or preserve the highways of this state.
- 8.5.1.** A medical waiver may be revoked by the CSP when a waiver holder fails to comply with applicable terms and conditions of the CSP Medical Waiver Program.
- 8.5.2.** A medical waiver may be revoked by the CSP when it is determined that, based upon relevant motor vehicle operations data available to the CSP, the continued use of the waiver by a holder fails to promote safety, protect human life, or preserve the highways of this state.
- 8.5.3.** Revocation of any medical waiver will be by written notice from the MCSS consistent with §24-4-104, CRS.
- 8.6. RIGHT TO HEARING UPON MEDICAL WAIVER REVOCATION.** Within 30 days of receiving written notice from the MCSS of a pending waiver revocation, the MCSS will provide the waiver holder an opportunity to attend a hearing consistent with §24-4-104, CRS.
- 8.7. RIGHT TO APPEAL MEDICAL WAIVER REVOCATION SUBSEQUENT INITIAL HEARING.** Within 20 days of the completion of this hearing or the failure of the waiver holder to attend, the Chief will issue a written decision either sustaining or overturning the medical waiver revocation. Within 30 days of receiving written notice from the MCSS revoking a medical waiver, the holder of the waiver may submit an appeal.
- 8.7.1.** Appeal requests by waiver holders must be made in writing.
- 8.7.2.** Appeal requests must be addressed to the Chief at the MCSS at 15075 S. Golden Rd., Golden, CO., 80401.
- 8.7.3.** The Chief will hold a hearing upon the appeal consistent with §24-4-105, CRS.
- 8.7.3.1.** The scope of any hearing or appeal will be limited to whether the applicant or waiver card holder complied with terms and conditions applicable to the medical waiver program.
- 8.7.4.** The Chief will issue a written decision within 20 business days of the completed hearing.
- 8.7.4.1.** If the Chief finds that evidence of non-compliance and/or ineligibility is sufficient, the medical waiver revocation will be sustained.
- 8.7.4.2.** If the Chief finds that evidence of non-compliance and/or ineligibility is insufficient, the medical waiver revocation will be immediately overturned and the medical waiver reinstated.

**8.7.5.** The decision of the Chief upon appeal will constitute a final agency action and is subject to judicial review as described by §24-4-106, CRS.

**MCS 9. INTRASTATE SAFETY FITNESS RATINGS AND CIVIL PENALTIES.** The CDPS is authorized by the provisions of §42-4-235 (2) (a), CRS, to collect civil penalties levied against intrastate carriers found in violation of the rules adopted by the CDPS pursuant to §42-4-235 (4) (a), CRS. The procedure established by these rules applies to the determination and issuance of these civil penalties.

- 9.1. INTRASTATE CARRIER SAFETY RATINGS.** The CSP will establish a Safety Fitness Rating for each motor carrier upon which it conducts a Compliance Review. The CSP will use as general guidelines the procedures and definitions contained in 49 CFR 385.
- 9.2. SCOPE, AUTHORITY, AND APPLICATION.** §42-4-235 (2) (a), CRS, regarding the minimum standards for commercial vehicles, provides that no person will operate a commercial vehicle on a public highway of this state unless such vehicle is in compliance with the rules adopted by the CSP. Any person who violates such rules will be subject to the civil penalties authorized pursuant to 49 CFR 386, Subpart G.
- 9.3. 49 CFR 386, SUBPART G NOT APPLICABLE TO INTRASTATE MOTOR CARRIERS.** Intrastate motor carriers will not be subject to any of the provisions in 49 CFR 386, Subpart G, that relate the amount of a penalty to a violator's ability to pay. Civil penalties will be based upon the nature and gravity of the violation(s), the degree of culpability, and such other matters as justice and public safety may require.
- 9.4. EXCLUSIVE AUTHORITY TO CONDUCT COMPLIANCE REVIEWS.** The CSP will have the exclusive authority to conduct Compliance Reviews, as defined in 49 CFR 385.3 and to impose civil penalties pursuant to such rules.
- 9.5. APPLICATION OF CIVIL PENALTY.** The Civil Penalty will be applied at the completion of a Compliance Review by an MCSS Investigator certified by the FMCSA as a Compliance Review Investigator.
- 9.6. CIVIL PENALTY DEFINITIONS.** Unless otherwise specified, the following definitions are applicable to this MCS 9.
  - 9.6.1. Civil Penalty Process:** The process and proceedings to collect civil penalties by the CSP for violations of §42-4-235 (4) (a), CRS.
  - 9.6.2. Notice of Claim Letter (NOC):** The written order informing the motor carrier of their penalty, the rights associated with the penalty, and the process for responding to the penalty.

- 9.6.3. Commercial Vehicle:** ~~w~~Will have the same meaning as described in §42-4-235 (1) (a), CRS.
- 9.6.4. Compliance Review:** An examination of motor carrier operations, such as driver's hours of service, maintenance and inspection, driver qualifications, CDL requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard.
- 9.6.5. Conditional Safety Rating:** Indicates that a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standards that could result in **THE** occurrences listed in 49 CFR 385.5.
- 9.6.6. Motor Carrier:** Will have the same meaning as described in §42-4-235 (1) (c), CRS.
- 9.6.7. Served/Service:** Indicates a NOC or other service document was sent by first class mail to the last address furnished to the MCSS by the motor carrier or was personally served upon the motor carrier by a uniformed member of the CSP.
- 9.6.7.1.** Service of a NOC or document by first class mail is considered complete when it is mailed, not when it is received.
- 9.6.8. Satisfactory Safety Rating:** Indicates a motor carrier has in place and functioning adequate Safety Fitness controls to meet the safety fitness standard prescribed in 49 CFR 385.5. Safety Fitness controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.
- 9.6.9. Unrated Safety Rating:** Indicates a safety rating has not been assigned to the motor carrier by the CSP.
- 9.6.10. Unsatisfactory Safety Rating:** Indicates a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard, resulting in occurrences listed in 49 CFR 385.5.
- 9.7. SAFETY FITNESS RATING ASSIGNMENT.** Upon completion of a Compliance Review, the CSP will assign a proposed Safety Fitness Rating that will be based on the degree of compliance with the federal motor carrier safety fitness standard for motor carriers found in 49 CFR 385.5.
- 9.7.1.** The Safety Fitness Rating will be determined using the factors prescribed in 49 CFR 385.7. A motor carrier may determine their degree of compliance with the safety fitness standard by reviewing 49 CFR 385.5.

- 9.7.2. On the 61<sup>st</sup> day after the assignment of a proposed Safety Fitness Rating, the motor carrier's Safety Fitness Rating will become a final Safety Fitness Rating.
- 9.7.3. The final Safety Fitness Rating of an intrastate motor carrier will be available to the public upon request by contacting the CSP CRU office at:

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

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

The request must conform to the following provisions:

- 9.9.1. The motor carrier must submit a description of corrective action(s) taken, hereinafter referred to as the Cooperative Safety Plan.
  - 9.9.2. The Cooperative Safety Plan must address each violation on the most recent Compliance Review that was an acute and/or critical violation. It must also address factor six (crashes) of the Compliance Review when the rating for factor six is “unsatisfactory.”
  - 9.9.3. The Cooperative Safety Plan must identify why the violation(s) cited as acute and/or critical were permitted to occur.
  - 9.9.4. The Cooperative Safety Plan must discuss the actions to be taken to correct the deficiency or deficiencies that allowed the acute and/or critical violations to occur.
  - 9.9.5. Actions taken to ensure these critical and/or acute violations do not reoccur in the future.
  - 9.9.6. If factor six (crashes) is rated unsatisfactory, an accident countermeasure program must be included as part of the Cooperative Safety Plan. The program must include, but not be limited to, defensive driving training.
  - 9.9.7. If the Cooperative Safety Plan includes actions taken in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., a schedule of when the activity is to occur must be included.
  - 9.9.8. Any additional documentation or information that relates to motor carrier safety and the prevention of crashes and hazardous materials incidents must be included.
  - 9.9.9. The Cooperative Safety Plan must include a written statement certifying that the motor carrier will operate in compliance with the motor carrier safety and hazardous materials regulations adopted by the CSP pursuant to §§42-4-235 and 42-20-108, CRS, and all applicable state and local laws.
  - 9.9.10. The Cooperative Safety Plan must be signed by a corporate officer in the case of a corporation, a member or manager in the case of an LLC, by the general partner of a limited partnership, or by all the partners or proprietors in the case of a general partnership or proprietorship.
- 9.10. **MOTOR CARRIER REQUEST TO CHANGE SAFETY RATING THROUGH COMPLIANCE REVIEW.** A motor carrier may request a change in their Safety Fitness Rating by requesting a follow-up Compliance Review, as follows:
- 9.10.1. The request must be made to the Chief **IN WRITING**. The request

cannot be made by the motor carrier and will not be acted upon by the CSP sooner than three months after the assignment of a proposed Safety Fitness Rating.

**9.10.2.** The Compliance Review investigator will review the corrective action(s) taken by the motor carrier since the last Compliance Review.

**9.11. CIVIL PENALTY ASSESSMENT.** A Compliance Review may result in the assessment of a Civil Penalty for violations discovered during the Compliance Review, as prescribed by §42-4-235 (2), CRS.

**9.12. CIVIL PENALTY AMOUNT DETERMINATION.** The amount of a Civil Penalty Assessment will be determined by considering the following factors:

**9.12.1.** The nature and gravity of the violation(s).

**9.12.2.** The degree of culpability.

**9.12.3.** The history of offenses within **THE** three years preceding the date of the Compliance Review.

**9.12.4.** Such other matters as justice and public safety may require, not to include any consideration of a violator's ability to pay the Civil Penalty.

**9.13. IMPLEMENTS OF HUSBANDRY EXEMPTED.** The intrastate operation of implements of husbandry will not be subject to the civil penalties provided in 49 CFR 386, Subpart G.

**9.14. APPLICATION OF UFA.** The Compliance Review investigator will use the UFA as it is codified within §42-4-235 (2) (a), CRS, to determine the Civil Penalty to be levied upon a motor carrier.

**9.15. NOTIFICATION OF PENALTY.** Upon determination of a Civil Penalty, the Compliance Review investigator will service written notification of the civil penalty assessment upon a motor carrier in the form of a NOC.

**9.16. PAYMENT OR ADMINISTRATIVE REVIEW OF PENALTY.** The motor carrier will **MUST** respond to the MCSS within 30 days of service of the NOC upon the carrier by the CSP in one of the following ways:

**9.16.1.** Paying the full amount of the Civil Penalty as instructed in the NOC; or

**9.16.2.** Submitting a written request for a payment plan to the Commander of the MCSS; or

**9.16.3.** If a motor carrier believes the CSP committed an error in determining its Civil Penalty, they may request an administrative review of that penalty. The following provisions govern the administrative review:

**9.16.3.1.** The request must be in writing, addressed to the Chief within



30 days of the service of the NOC.

- 9.16.3.2.** The request must explain the error the motor carrier believes the CSP committed in issuing the Civil Penalty. The motor carrier must include a list of issues in dispute, and any supporting information or documentation.
- 9.16.3.3.** The Chief may request additional information and/or require the motor carrier to attend a conference to discuss the penalty. If the motor carrier does not provide the information requested or attend the conference, then the Chief may dismiss this request.
- 9.16.3.4.** The Chief will serve the motor carrier with a written decision within 30 days after the Chief has determined that the administrative record is complete. This decision will constitute a final agency action.
- 9.16.3.5.** A motor carrier has 30 days from the date of the service the decision to pay the penalty, to arrange for a payment plan as described within these rules, or 35 days from the date of a final agency action, to file an action in the appropriate district court pursuant to §24-4-106 (4), CRS.

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

- 9.17.1.** The MCSS will forward notice to the CDOR of any carrier deemed to have failed to pay, consistent with §42-4-235 (2) (d) (I), CRS.
- 9.17.2.** If the MCSS forwards notice to CDOR of a carrier which has failed to pay the assessed or adjudicated penalty, the registrations of the vehicle(s) registered to the carrier will be canceled pursuant to §42-3-120, CRS.

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

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

**MCS 11. INFORMATION, MAINTENANCE AND REFERENCE OF PUBLICATIONS, STANDARDS, GUIDELINES AND RULES.**

All publications, standards, guidelines, and rules adopted and incorporated by reference in these rules are on file and available upon request for public inspection by contacting the MCSS at 15075 S. Golden Rd., Golden CO., 80401-3990. These rules are available upon request from the MCSS and online through the CDPS website at ~~HTTPS://WWW.COLORADO.GOV/PACIFIC/PUBLICSAFETY/RULES-AND-REGULATIONS-6~~ <HTTPS://PUBLICSAFETY.COLORADO.GOV/GET-INVOLVED/RULES-AND-REGULATIONS>.

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

**11.1.1.** Commercial Vehicle Safety Alliance (~~2021-2022~~). North American Standard Out-of-Service Criteria (OOSC). April 1, ~~2021-2022~~. Greenbelt, MD: Author.

**11.1.2.** Federal Motor Carrier Safety Regulations, 49 CFR 40, 380, 382, 383, 385, 387, 391-397, 399, and Appendix G (October 1, ~~2020-2021~~). This information is also available online through the Government Publishing Office website at <HTTPS://WWW.EFCR.GOV/-CGI-BIN/ECFR?PAGE=BROWSE>.

**11.2. MAINTENANCE OF COPIES.** The MCSS will maintain copies of the complete texts of each of the publications, standards, guidelines referenced herein and these rules. The MCSS will make each available for public inspection during regular business hours.

**11.3. AVAILABILITY OF COPIES.** Interested parties may access information about or these documents free of charge online. Interested parties may also inspect the referenced materials and/or obtain copies of the adopted standards for a reasonable fee by contracting the MCSS. Copies of the adopted publications, standards, guidelines, and rules may also be available from the organizations or agencies of origin:

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

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

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

**MCS 12. SEVERABILITY.** If any provision of these rules or the application thereof to any person or circumstance is determined to be unlawful or invalid, the remaining provisions of these rules will not be affected, absent a specific reference.