

C.R.S. 42-20-401

This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015)

**Colorado Revised Statutes > TITLE 42. VEHICLES AND TRAFFIC > HIGHWAY SAFETY
> ARTICLE 20. TRANSPORTATION OF HAZARDOUS AND NUCLEAR MATERIALS > PART 4.
NUCLEAR MATERIALS - GENERAL PROVISIONS**

42-20-401. Legislative declaration

It is hereby determined and declared that nuclear materials create a potential risk to the public health, safety, and welfare of the people of the state of Colorado. As an origination point of nuclear waste and a corridor state through which nuclear materials pass, the state has a duty to protect its citizens and environment from all hazards created by the transportation of nuclear materials within its borders. State and public participation in planning for the transport of nuclear materials and in the development of a plan to cope with all phases of the nuclear materials problem is essential in order to adequately prepare for potential nuclear incidents. To that end, it is the purpose of this part 4 and part 5 of this article to require safe and environmentally acceptable methods of transporting nuclear materials within this state in a manner consistent with the laws of the United States and the rules and regulations promulgated by agencies of the United States.

History

Source:

L. 94: Entire title amended with relocations, p. 2529, § 1, effective January 1, 1995. L. 95: Entire section amended, p. 963, § 27, effective May 25.

COLORADO REVISED STATUTES

C.R.S. 42-20-402

This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015)

Colorado Revised Statutes > TITLE 42. VEHICLES AND TRAFFIC > HIGHWAY SAFETY > ARTICLE 20. TRANSPORTATION OF HAZARDOUS AND NUCLEAR MATERIALS > PART 4. NUCLEAR MATERIALS - GENERAL PROVISIONS

42-20-402. Definitions

As used in this part 4 and part 5 of this article, unless the context otherwise requires:

- (1) "Carrier" means any person transporting goods or property on the public roads of this state in, to, from, or through this state, whether or not such transportation is for hire.
- (2) "Commission" means the public utilities commission.
- (3) (a) "Nuclear materials" means highway route controlled quantities of radioactive materials as defined in 49 CFR 173.403 (l).
 - (b) "Nuclear materials" does not include nuclear materials used for research or medical purposes within Colorado. For the purpose of this paragraph (b), highway route controlled quantities of radioactive materials used to irradiate medical supplies and equipment are not considered to be used for medical purposes.
 - (c)
 - (I) "Nuclear materials" includes radioactive materials being transported to the waste isolation pilot plant in New Mexico and radioactive materials being transported to any facility provided pursuant to section 135 of the federal "Nuclear Waste Policy Act of 1982", 42 U.S.C. 10101 et seq., or any repository licensed by the United States nuclear regulatory commission that is used for the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel.
 - (II) Except as provided in subparagraph (I) of this paragraph (c), "nuclear materials" does not include radioactive materials utilized in national security activities under the direct control of the United States department of defense, nor does it include radioactive materials under the direct control of the United States department of energy which are utilized in carrying out atomic energy defense activities, as defined in the federal "Nuclear Waste Policy Act of 1982", 42 U.S.C. 10101 et seq., or wastes from mining, milling, smelting, or similar processing of ores and mineral-bearing material.
 - (III) Notwithstanding the provisions of subparagraph (I) of this paragraph (c), "nuclear materials" does not include ores or products from mining, milling, smelting, or similar processing of ores, or the transportation thereof.

History

Source:

L. 94: Entire title amended with relocations, p. 2529, § 1, effective January 1, 1995. L. 95: IP amended, p. 963, § 28, effective May 25.

C.R.S. 42-20-403

This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015)

**Colorado Revised Statutes > TITLE 42. VEHICLES AND TRAFFIC > HIGHWAY SAFETY
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NUCLEAR MATERIALS - GENERAL PROVISIONS**

42-20-403. Chief to promulgate rules and regulations - motor vehicles

The chief shall promulgate rules and regulations for the safe transportation of nuclear materials by motor vehicle. Such rules shall not be inconsistent with any federal rule or regulation governing the transportation of the nuclear materials subject to parts 4 and 5 of this article. Such rules shall be applicable to any person who transports or ships, or who causes to be transported or shipped, a nuclear material by motor vehicle.

History

Source:

L. 94: Entire title amended with relocations, p. 2530, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-404

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NUCLEAR MATERIALS - GENERAL PROVISIONS**

42-20-404. Inspections

All vehicles carrying nuclear materials entering the state on the public highways shall be inspected by a Colorado state patrol officer or a port of entry officer, as defined in section 42-8-102 (3), at the nearest point at which the shipment enters the state or at a location specified by the Colorado state patrol. For all shipments originating within the state, inspection shall be made at the point of origination by a Colorado state patrol officer or a port of entry officer. Inspections conducted by Colorado state patrol officers or port of entry officers shall be in accordance with the rules promulgated pursuant to sections 42-4-235, 42-20-108 (2), and 42-20-403.

History

Source:

L. 94: Entire title amended with relocations, p. 2530, § 1, effective January 1, 1995. L. 95: Entire section amended, p. 963, § 29, effective May 25. L. 2010: Entire section amended, (HB 10-1113), ch. 244, p. 1084, § 5, effective July 1. L. 2012: Entire section amended, (HB 12-1019), ch. 135, p. 473, § 23, effective July 1.

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C.R.S. 42-20-405

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42-20-405. Violations - criminal penalties

- (1) Notwithstanding the provisions of section 40-7-107, C.R.S., any person who violates any provision of this part 4 or part 5 of this article or rule or regulation promulgated by the chief pursuant to this part 4 and part 5 of this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. No conviction pursuant to this section shall bar enforcement by the commission of any provision of title 40, C.R.S., with respect to violations by persons subject to said title.
- (2) Every court having jurisdiction over offenses committed under subsection (1) of this section shall forward to the chief a record of the conviction of any person in said court for a violation of any provision of part 4 or 5 of this article or any rule or regulation promulgated pursuant thereto within forty-eight hours after such conviction. As used in this subsection (2), "conviction" means a final conviction.

History

Source:

L. 94: Entire title amended with relocations, p. 2530, § 1, effective January 1, 1995. L. 95: (1) amended, p. 963, § 30, effective May 25. L. 2002: (1) amended, p. 1565, § 385, effective October 1.

C.R.S. 42-20-406

This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015)

Colorado Revised Statutes > TITLE 42. VEHICLES AND TRAFFIC > HIGHWAY SAFETY > ARTICLE 20. TRANSPORTATION OF HAZARDOUS AND NUCLEAR MATERIALS > PART 4. NUCLEAR MATERIALS - GENERAL PROVISIONS

42-20-406. Violations - civil penalties - motor vehicles

- (1) Any person who violates any provision of this part 4 or part 5 of this article or a rule or regulation promulgated by the chief pursuant to this part 4 and part 5 of this article, except for the violations enumerated in subsection (3) of this section and section 42-20-505, shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. The penalty shall be assessed by the chief upon receipt of a complaint by any investigative personnel of the commission or Colorado state patrol officer and after written notice and an opportunity for a hearing pursuant to section 24-4-105, C.R.S. Payment of a civil penalty under this section shall not relieve any person from liability pursuant to article 11 of title 25, part 3 of article 15 of title 25, or article 22 of title 29, C.R.S. Any person who is assessed a penalty pursuant to this subsection (1) shall have the right to appeal the chief's decision by filing a notice of appeal with the court of appeals as specified in section 24-4-106 (1), C.R.S.
- (2) Any person who commits any of the acts enumerated in subsection (3) of this section shall be subject to the civil penalty listed in said subsection (3). Investigative personnel of the commission, and officers of the Colorado state patrol shall have the authority to issue civil penalty assessments for the enumerated violations. At any time that a person is cited for a violation enumerated in subsection (3) of this section, the person in charge of or operating the motor vehicle involved shall be given a notice in the form of a civil penalty assessment notice. Such notice shall be tendered by the enforcement official and shall contain the name and address of such person, the license number of the motor vehicle involved, if any, the number of such person's driver's license, the nature of the violation, the amount of the penalty prescribed for such violation, the date of the notice, a place for such person to execute a signed acknowledgment of his or her receipt of the civil penalty assessment notice, a place for such person to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute such notice as a complaint to appear in court should the prescribed penalty not be paid within ten days. Every cited person shall execute the signed acknowledgment of his or her receipt of the civil penalty assessment notice. The acknowledgment of liability shall be executed at the time the cited person pays the prescribed penalty. The person cited shall pay the civil penalty specified in subsection (3) of this section for the violation involved at the office of the department of revenue either in person or by postmarking such payment within ten days of the citation. The department of revenue shall accept late payment of any penalty assessment up to twenty days after such payment becomes due. If the person cited does not pay the prescribed penalty within ten days of the notice, the civil penalty assessment notice shall constitute a complaint to appear in court unless payment for such penalty assessment has been accepted by the department of revenue as evidenced by receipt, and the person cited shall, within the time specified in the civil penalty assessment notice, file an answer to this complaint with the county court for the county in which the penalty assessment was issued. The attorney general shall represent the state agency that issued the civil penalty assessment notice if so requested by the agency.
- (3) The following penalties shall apply only to the transportation of nuclear materials by motor vehicle and shall be assessed against drivers, shippers, carriers, operators, brokers, and other persons, as appropriate:

 - (a) Any person who operates a motor vehicle without a driver's log book in his or her possession, as required by 49 CFR 395.8, shall be assessed a civil penalty of one hundred dollars.
 - (b) Any person who operates a motor vehicle without maintaining a driver's log book in current condition, in accordance with 49 CFR 395.8, shall be assessed a civil penalty of one hundred dollars.

- (c) Any person who enters false information in a driver's log book in violation of 49 CFR 395.8 (e) shall be assessed a civil penalty of two hundred fifty dollars.
- (d) Any person who exceeds maximum driving or on duty time, as established by 49 CFR 395.3, shall be assessed a civil penalty of two hundred fifty dollars.
- (e) Any person who fails to produce his or her driver's log book on demand of any law enforcement official, port of entry personnel, or investigative personnel of the commission in violation of 49 CFR 395.8 shall be assessed a civil penalty of two hundred fifty dollars.
- (f) Any person who fails to have a valid medical certificate in his or her possession, in accordance with 49 CFR 391.43, shall be assessed a civil penalty of one hundred dollars.
- (g) Any person who operates a motor vehicle without meeting driver qualifications, as established in 49 CFR 177.825 (d) and section 42-20-501, shall be assessed a civil penalty of five hundred dollars.
- (h) Any person who carries an unauthorized passenger, as defined in 49 CFR 392.60, shall be assessed a civil penalty of one hundred dollars.
- (i) Any person who operates a motor vehicle while that person is declared to be out of service, as defined in 49 CFR 395.13, shall be assessed a civil penalty of five hundred dollars.
- (j) Any person who operates an unsafe vehicle, as defined in 49 CFR 396, shall be assessed a civil penalty of one hundred fifty dollars.
- (k) Any person who operates a motor vehicle without correcting defects as noted on a safety inspection report in violation of 49 CFR 396.9 shall be assessed a civil penalty of five hundred dollars.
- (l) Any person who operates a motor vehicle while that vehicle is declared to be out of service, as defined in 49 CFR 396.9 (c) (2), shall be assessed a civil penalty of one thousand dollars.
- (m) Any person who transports nuclear materials without proper visibility and display of placards in violation of 49 CFR 172.504 shall be assessed a civil penalty of two hundred dollars.
- (n) Any person who transports nuclear materials without proper placards, as provided in 49 CFR 172.504, shall be assessed a civil penalty of five hundred dollars.
- (o) Any person who displays nuclear materials placards on vehicles not transporting nuclear materials in violation of 49 CFR 172.502 shall be assessed a civil penalty of one hundred dollars.
- (p) Any person who fails to have hazardous materials shipping papers in conformance with 49 CFR 177.817 shall be assessed a civil penalty of five hundred dollars.
- (q) Any person who parks a motor vehicle transporting nuclear materials in violation of 49 CFR 397.7 shall be assessed a civil penalty of five hundred dollars.
- (r) Any person who violates a provision of section 42-20-508 or the rules adopted pursuant thereto shall be assessed a civil penalty of five hundred dollars.
- (s) Any person who improperly fills out the shipping papers required by 49 CFR part 172, subpart C, shall be assessed a civil penalty of five hundred dollars.
- (t) Any person who fails to report a nuclear incident, or fails to take necessary response actions, as required by 49 CFR 171.15 and 171.16 and 49 CFR 177.861, shall be assessed a civil penalty of five hundred dollars.
- (u) Any person who supplies inaccurate information in, or who fails to comply with, the route plan required by 49 CFR 177.825 (c) shall be assessed a civil penalty of five hundred dollars.
- (v) Any person who transports nuclear materials in violation of the radiation level limitations established in 49 CFR 173.441 shall be assessed a civil penalty of one thousand dollars.

- (w) Any person who transports nuclear materials in excess of the maximum permissible transport index, as provided in 49 CFR part 173, shall be assessed a civil penalty of one thousand dollars.

History

Source:

L. 94: Entire title amended with relocations, p. 2530, § 1, effective January 1, 1995.L. 95: (1) amended, p. 964, § 31, effective May 25.L. 96: (2) amended, p. 639, § 5, effective May 1.L. 2000: (2) amended, p. 1651, § 48, effective June 1.L. 2010: (1) and (2) amended, (HB 10-1113), ch. 244, p. 1084, § 6, effective July 1.

COLORADO REVISED STATUTES

C.R.S. 42-20-407

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NUCLEAR MATERIALS - GENERAL PROVISIONS**

42-20-407. Repeat violations - civil penalties

- (1) If any person receives two penalty assessments within one year for a violation of section 42-20-406 and the first penalty assessment has not been reversed by a court of competent jurisdiction, the penalty for the second violation shall be two times the amount of the penalty listed for the violation in section 42-20-406.
- (2) If any person receives three or more penalty assessments within one year for a violation of section 42-20-406 and if two or more of the previous penalty assessments have not been reversed by a court of competent jurisdiction, the penalty for each of the third and subsequent violations shall be three times the amount of the penalty listed for the violation in section 42-20-406.

History

Source:

L. 94: Entire title amended with relocations, p. 2533, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-408

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NUCLEAR MATERIALS - GENERAL PROVISIONS**

42-20-408. Compliance orders - penalty

- (1) Whenever the chief finds that any person is in violation of any rule, regulation, or requirement of part 4 or 5 of this article, the chief may issue an order requiring such person to comply with any such rule, regulation, or requirement and may request the attorney general to bring suit for injunctive relief or for penalties pursuant to section 42-20-406.
- (2) Any person who violates any compliance order of the chief which is not subject to a stay pending judicial review and which has been issued pursuant to this part 4 shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs.

History

Source:

L. 94: Entire title amended with relocations, p. 2533, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-501

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**Colorado Revised Statutes > TITLE 42. VEHICLES AND TRAFFIC > HIGHWAY SAFETY
> ARTICLE 20. TRANSPORTATION OF HAZARDOUS AND NUCLEAR MATERIALS > PART 5.
NUCLEAR MATERIALS PERMIT SYSTEM**

42-20-501. Nuclear materials transportation permit required - application

- (1) No transportation of nuclear materials shall take place in, to, from, or through this state until the commission issues a permit, in accordance with the provisions of this section, which is not inconsistent with federal law, authorizing the applicant to operate or move upon public roads of this state a motor vehicle or combination of motor vehicles which carry nuclear materials.
- (2) Each carrier desiring to transport nuclear materials shall submit a permit application, in the form designated by the commission, to the commission prior to beginning such transportation.

History

Source:

L. 94: Entire title amended with relocations, p. 2534, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-502

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NUCLEAR MATERIALS PERMIT SYSTEM**

42-20-502. Permits - fees

Each permit issued pursuant to section 42-20-501 shall be valid for one year following its issuance and shall be issued after approval of the carrier's permit application and upon payment of a five-hundred-dollar permit fee. In addition to the permit fee, each carrier shall pay a two-hundred-dollar fee for each shipment. The shipment fee shall be paid either by mail, in which case it must be postmarked at least seven days before the shipment is to be made, or at the time the shipment enters the state at the port of entry weigh station nearest the point at which the shipment enters the state. If the shipment originates in this state, payment shall be made at the port of entry weigh station nearest the point of origination of the shipment.

History

Source:

L. 94: Entire title amended with relocations, p. 2534, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-503

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42-20-503. Carrying of shipping papers

Any person transporting nuclear materials in this state shall carry a copy of the shipping papers required in 49 CFR part 172, subpart C.

History

Source:

L. 94: Entire title amended with relocations, p. 2534, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-504

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NUCLEAR MATERIALS PERMIT SYSTEM**

42-20-504. Rules and regulations

The chief is authorized to promulgate reasonable rules and regulations which are necessary or desirable in governing the issuance of permits if such rules and regulations are not in conflict with or inconsistent with federal rules and regulations.

History

Source:

L. 94: Entire title amended with relocations, p. 2534, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-505

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NUCLEAR MATERIALS PERMIT SYSTEM**

42-20-505. Penalties - permit system

- (1) The investigative personnel of the commission, a Colorado state patrol officer, or a port of entry officer, as defined in section 42-8-102 (3), may assess a civil penalty of one thousand dollars against a carrier who transports nuclear materials without first obtaining a nuclear materials transportation permit.
- (2) A carrier who misrepresents information in the carrier's application for a nuclear materials transportation permit, violates the terms of the permit, or commits a second violation of subsection (1) of this section within one calendar year shall be assessed a civil penalty of not less than five hundred dollars nor more than three thousand dollars.
- (3) The penalties in subsection (1) of this section shall be assessed upon an action brought by the commission or the Colorado state patrol in accordance with the procedure set forth in section 42-20-406.

History

Source:

L. 94: Entire title amended with relocations, p. 2534, § 1, effective January 1, 1995. L. 2000: (3) amended, p. 1654, § 51, effective June 1. L. 2012: Entire section amended, (HB 12-1019), ch. 135, p. 473, § 24, effective July 1.

C.R.S. 42-20-506

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42-20-506. Permit suspension and revocation

In addition to any other civil or criminal penalties, the commission may suspend the nuclear materials transportation permit of any carrier for a period not to exceed six months or revoke such permit for failure to comply with the permit terms, misrepresentation of information in the permit application, failure to pay a civil penalty assessed pursuant to section 42-20-406, or failure to comply with the regulations promulgated pursuant to parts 4 and 5 of this article. The permit may be suspended or revoked only for good cause shown after due notice and opportunity for a hearing pursuant to section 24-4-105, C.R.S., if requested by the carrier.

History

Source:

L. 94: Entire title amended with relocations, p. 2535, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-507

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42-20-507. Local government preemption

No county, city and county, city, or town shall establish any permit or fee system for the transportation of nuclear materials by motor vehicle or railcar in, to, from, or through this state.

History

Source:

L. 94: Entire title amended with relocations, p. 2535, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-508

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42-20-508. Route designation - motor vehicles

- (1) The chief of the Colorado state patrol shall have the authority to adopt rules to designate which state highways shall be used and which shall not be used by motor vehicles transporting nuclear materials in this state.
- (2) The carrier shall not deviate from the routes designated pursuant to subsection (1) of this section except in order to make local pickups and deliveries and in cases of emergency conditions which would make continued use of the designated route unsafe, or to refuel, or when the designated route is closed due to road conditions, road construction, or maintenance operations. When making local pickups and deliveries or when refueling, the carrier shall remain on the routes designated by the Colorado state patrol and shall minimize the distance traveled on nondesignated routes.

History

Source:

L. 94: Entire title amended with relocations, p. 2535, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-509

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42-20-509. Strict liability for nuclear incidents

Any person who causes the release of any nuclear material being transported shall be strictly liable for all injuries and damages resulting therefrom. The conduct of the claimant shall not be a defense to liability; except that this section does not waive any defense based on the claimant's failure to mitigate damages or related to any injury or damage to the claimant or the claimant's property which is intentionally sustained by the claimant or which results from the release of any nuclear material being transported intentionally and wrongfully caused by the claimant.

History

Source:

L. 94: Entire title amended with relocations, p. 2535, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-510

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42-20-510. Statute of limitations

No person who has been injured or damaged as a result of a nuclear incident shall be precluded from bringing a suit against the person or persons responsible for causing the nuclear incident if such suit is instituted within three years after the date on which the injured person first knew, or reasonably could have known, of his or her injury or damage and the cause thereof; except that such suit must be brought within forty years after the date of the nuclear incident.

History

Source:

L. 94: Entire title amended with relocations, p. 2535, § 1, effective January 1, 1995.

COLORADO REVISED STATUTES

C.R.S. 42-20-511

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42-20-511. Nuclear materials transportation fund

All moneys collected pursuant to parts 4 and 5 of this article shall be transmitted to the state treasurer, who, in addition to any excess moneys transferred from the motor carrier fund pursuant to section 40-2-110.5 (9), C.R.S., shall credit the same to the nuclear materials transportation fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of parts 4 and 5 of this article.

History

Source:

L. 94: Entire title amended with relocations, p. 2536, § 1, effective January 1, 1995. L. 2006: Entire section amended, p. 1095, § 6, effective August 7.

COLORADO REVISED STATUTES