DEPARTMENT OF REVENUE

Division of Motor Vehicles

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

1 CCR 204-30 RULE 8

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

PURPOSE

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

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

STATUTORY AUTHORITY

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

(100) DEFINITIONS

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

b) **Basic Operator Skills Tester (BOST Tester):** An individual employed by a Certified Commercial Driving School who has successfully passed all training required by the Department and is certified to administer the BOSD and/or the BOSW. For purposes of this rule, "administer" includes proctoring and grading.

c) **Basic Operator Skills Testing Organization (BOSTO):** A Certified Commercial Driving School that is also certified by the Department to conduct the BOST for a permit or driver license.

d) **Behind-The-Wheel (BTW):** Actual instructional driving time during which the novice driver operates a Class R vehicle (e.g., off-street, on-street, on-highway) and is guided by an instructor in the front passenger seat. Observation is not included in behind-the-wheel time.

e) **Certified Commercial Driving School (CCDS):** Any business or any person certified by the Department to provide or offer to provide Department approved training or examinations that are statutorily-mandated for a driver license or instruction permit.

f) **Certified Employee:** An individual employed by a CCDS and certified by the Department to conduct training, examinations, or access DRIVES.

g) **Class R Vehicle:** Any motor vehicle with a Gross Vehicle Weight Rating of less than 26,001 lbs. as a single unit or in combination, designed to carry 15 or fewer passengers, including the driver, and does not carry hazardous material.

h) **Clock Hour:** Full hour consisting of sixty (60) minutes.

i) **Curriculum:** A course of instruction approved by the Department that meets the minimum requirements to obtain a driving permit.

j) **Department:** The Department of Revenue.

k) **Driver License Written Examination (Examination):** means the DR 2252 (English versions 1-4) or DR 2273 (Spanish versions 1-4) Driver's License Written Examination or electronic equivalent.

l) **DRIVES:** Driver License Record Identification Vehicle Enterprise Solution as defined in Section 42-1- 211, C.R.S.

m) **Driver Testing and Education (DTE):** unit within the Driver License Section of the Department of Revenue, Division of Motor Vehicles.

n) **Expanded Driver Awareness Program / Driver Awareness Program (EDAP/DAP):** A four-hour pre-qualification driver awareness program approved by the Department. Section 42-2-106(1)(d)(I), C.R.S.

o) **Fiscal Year:** Means July 1st through June 30th.

p) **Instruction Permit:** A document issued by the Department to allow an individual to drive a motorcycle or Class R vehicle, as provided for in section 42-2-106, C.R.S., prior to receiving a Colorado driver license.

q) **Revocation of Testing Certification:** The permanent withdrawal of a BOST Tester's or a BOSTO's testing privileges by the Department.

r) **Shadow Drive:** Additional practice in drive testing before certification or re-certification.

s) **Suspension of Testing Certification:** An action taken by the Department against a BOST Tester or a BOSTO whereby testing privileges are withdrawn for a specified period of time.

t) **Service Animals:** An animal that is trained to do work or perform tasks for people with disabilities. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals.

u) **Third Party Exam Completion Statement (TPE):** Form generated by DRIVES as a receipt to the applicant that the Certified Employee has entered exam information into DRIVES.

v) **Transaction Completion Statement (TCS):** Form generated by DRIVES to indicate data entered into DRIVES for each exam submitted.

(150) APPLICABILITY

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

(200) GENERAL REQUIREMENTS FOR COMMERCIAL DRIVING SCHOOL CERTIFICATION

a) In order for a Commercial Driving School to be certified by the Department, the school must:

1. Enter into a written contract with the Department; and

2. Offer a driver education course of instruction approved by the Department.

b) An application for certification must be submitted on forms provided by the Department and must be typed and indicate on the form the type of certification being requested. Incomplete applications will not be accepted.

c) A copy(s) of the CCDS's state, county, or municipal business license(s) or waivers, registration with the Secretary of State, along with any other documentation required by the county or city, are required to be submitted with an application.

d) A CCDS's place of business must be a separate establishment and not part of a residence.

1. All CCDSs are required to have a mailing address that is not a post office box; and

2. A CCDS must request and receive written approval from the Department for record keeping in a residential home office.

e) Each new owner/manager must complete records management training offered by the Department prior to certification.

f) A CCDS must have proof of current and valid general liability insurance, vehicle insurance and registration, surety bond, and worker's compensation insurance in the form of an insurance certificate, if required by the Workers' Compensation Act [Sections 8-40-101, et. seq. C.R.S.], on file with the Department at all times.

1. The Department must be listed on the general liability insurance policy and the vehicle insurance policy as a secondary insured.

2. No fewer than 30 days before the current insurance coverage expires, the CCDS must provide an updated insurance certificate to the Department.

3. The CCDS must notify the Department immediately upon cancellation of an insurance policy.

4. Failure to maintain current insurance coverage is grounds for suspension, and such suspension may be in effect until a current insurance certificate is provided to the Department.

g) A CCDS must provide an inventory of all Class R vehicles used for testing/training, and proof of second brake installation to the Department. Changes to vehicle inventory must be reported, in writing, to the Department within 30 days of the change.

h) Bond: A CCDS must maintain a surety bond, executed by a surety company authorized to do business in Colorado, in the amount of $10,000 with the Department.

1. The bond must be for the use and benefit of the Department in the event of a monetary loss within the limitations of the bond attributable to the willful, intentional, or negligent conduct of the CCDS, or its agents or employees;

2. If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the CCDS's certification may be suspended. The suspension may continue until satisfactory steps are taken to restore the original amount of the bond; and

3. The Department must be named as the beneficiary on the bond.

i) Physical facilities: A CCDS requesting certification by the Department must have a place of business with facilities to conduct classes and to maintain all required files and records:

1. All forms issued by the Department must be secured in limited access areas;

2. A CCDS must obtain written permission from property owners, on a DR 2060 Classroom Consent form prior to conducting driver education training on the property. The completed DR 2060 Classroom Consent must be submitted to the Department prior to the commencement of training on the property;

3. Each CCDS must post its hours of operation in a conspicuous place and be available to the public during those hours; and

4. If a CCDS uses approved public facilities as a place of business, then Certified Employees for the CCDS must have a copy of its CCDS certification and DR 2060

Classroom Consent in their possession.

j) A CCDS must provide to all Certified Employees a current version of this Rule 8 and must monitor and ensure their Certified Employees follow all applicable rules and regulations and Colorado Revised Statutes.

k) A CCDS must notify the Department in writing within three days of any change in the location of the place of business, directors, owners, or managers of any CCDS. Certifications are not transferable.

l) If a CCDS is sold or transferred to a new owner, then the new owner must file a new application for certification, sign a new contract with the Department and be approved by the Department before beginning operation under the new ownership. Failure to inform the Department of any ownership change is grounds for revocation or suspension of CCDS certification.

(201) CURRICULUM

a) A CCDS that trains using a simulator, range driving, or homework, cannot use this time towards the six-hours BTW training, but may count up to two hours towards classroom hours.

b) A CCDS must offer a 30-hour driver education curriculum approved by the Department, except that a CCDS that provides only EDAP/DAP training need not offer such 30-hour course, but must meet the requirements in section 303 of this rule.

c) When a curriculum is submitted for approval, the curriculum must include a lesson plan with an instructor guide, course outline, and course content (including simulator), all in the format required.

d) A CCDS may appeal the disapproval of its curriculum by filing a written appeal with the Department's Hearings Division within 60 calendar days after the date of the notice of disapproval.

e) A CCDS must teach the approved curriculum, including the required hours, and cannot change the curriculum without resubmission and re-approval.

f) Driver education courses must be equal to or exceed the requirements for hours of instruction (excluding meal times/breaks) and course content as set forth in the Department's application form for CCDS certification.

g) The curriculum requirements for a driver education course, EDAP, or BTW training are available on the Department's official website.

(202) CURRICULUM WITHDRAWAL

a) Approval of a CCDS's curriculum may be withdrawn if the curriculum is not compliant with statute, rule, or regulation.

b) If a CCDS is notified that approval for its curriculum has been withdrawn, the authority of the CCDS to teach the curriculum may be suspended, or such authority may be summarily suspended and the CCDS must immediately cease instructing and entering information into DRIVES.

(203) CLASSROOM REQUIREMENTS

a) A classroom must have working audio and video presentation equipment and provide at least one book per student as required by the curriculum.

b) With the exception of internet and home study, a CCDS must provide a classroom that meets the following requirements:

1. has space to seat all students, containing at least one seat and desk/table for each student, and one program instructor's desk, table, or podium; and

2. has restroom(s) available for student use.

c) Approval of the classroom by the Department is required prior to scheduling the first class.

d) Modular units must be inspected and approved in writing by the Department prior to any classes being taught at the unit. Motorized mobile units will not be approved.

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

(300) CERTIFIED COMMERCIAL DRIVING SCHOOL OPERATING REQUIREMENTS

a) A CCDS must comply with applicable Colorado Revised Statutes, Department rules and regulations.

b) A CCDS must cooperate with an investigation of a complaint against the CCDS or its Certified Employee.

c) A CCDS may provide information to applicants regarding documentation required by the Department for the issuance of Class R instruction permits, licenses, or identification cards, but should not contact the Department regarding an applicant's driving record except as specifically provided in this rule.

d) A CCDS must ensure that all Certified Employees of the CCDS:

1. provide to the Department a CBI background check (out of state Internet organizations excluded) and a typed DR 2066 New CCDS Employee Request;

2. do not have a personal driving record showing the accumulation of eight or more points or a suspension or revocation of driving privileges in the preceding three-years;

3. fully and accurately complete testing/training forms prior to entering into DRIVES;

4. do not share or divulge passwords and/or logins;

5. provide a unique email address to acquire access to DRIVES;

6. immediately enter TCSs for individuals that have been tested, regardless of pass or fail;

7. enter TCSs for individuals ~~that~~who have been trained within two business days of completion;

8. contact DTE immediately by phone or email upon entering incorrect information that affects the results of training/testing into DRIVES;

9. do not enter false or inaccurate TCSs; and

10. attach only Department approved DR forms to the TCS.

e) Entering information that represents that training/testing has been successfully completed, when a student has not successfully completed the testing/training, may result in suspension or revocation of the employee's certification, and the certification of the CCDS employing the Certified Employee may be suspended or revoked.

f) The Department may deny certification of an individual or revoke certification of a Certified Employee if they have been convicted of a felony or any offense involving moral turpitude.

Conviction includes a plea of guilty or nolo contendere or a deferred sentence, provided that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence. In determining whether to deny or revoke a certification, the Department will consider the factors contained in section 24-5-101(4), C.R.S.

g) A Certified Employee may not have a personal driving record showing the accumulation of eight or more points in the preceding three years. The Department will randomly audit motor vehicle records (MVR) of all Certified Employees. If an employee has accumulated eight or more points within the preceding three years, the employee's certification for BTW and BOSD may be suspended or revoked.

h) A CCDS must:

1. have a valid organization number on file with the Department;

2. have a corresponding TCS and a supporting DR testing/training form for every entry into DRIVES;

3. submit a new CBI background check (out of state Internet organizations excluded) for each Certified Employee upon renewal;

4. within 10 days of hiring a new employee, submit a typed DR 2066 New CCDS Employee Request form listing the certifications requested (excluding BOSD) for the Certified Employee and the result of the CBI background check;

5. ensure that training/testing forms are fully and accurately completed prior to entering the information into DRIVES;

6. ensure that information is accurately entered into DRIVES by its Certified Employees. Any incorrect information entered into DRIVES that affects the result of training/testing must be reported to the Department immediately;

7. ensure that if a TCS is reversed or entered multiple times, all TCSs are attached to the corresponding supporting documentation;

8. ensure that entries into DRIVES are not made prior to the completion of training/testing;

9. ensure that only the TCS is stapled to the Department approved supporting documentation and that the TPE is provided to the applicant;

10. ensure that training/testing times reported by the CCDS do not overlap with classroom, BTW, and Drive testing;

11. ensure that every entry into DRIVES has a corresponding TCS and its Department approved supporting documentation; and

12. ensure that all testing/training entries into DRIVES are associated with the applicant's Customer Identifier Number or pre-registration confirmation number.

i) A CCDS must notify the Department of the location of all branch offices. Branch opening notices must include copies of the business license(s). Written notice must be provided to the Department within three business days of opening or closing any branch office, and the notice must include the names of all Certified Employees to be added or deleted from the CCDS's certification and the date the branch office was opened or closed. A branch office is required to meet all classroom and physical facilities requirements applicable to the main facility.

j) A CCDS must maintain on file with the Department current physical and mailing addresses, contact phone numbers, and the name of one contact person who is an employee or principal of the CCDS.

k) The CCDS must ensure that nothing marks or covers the TCS barcode, and ensure that the barcode is readable by a barcode scanner.

l) A CCDS must notify the Department in writing within three business days of locking an employee out of DRIVES and the date that a Certified Employee is no longer employed by the CCDS.

m) A CCDS must ensure that an applicant's permit ~~or license~~ is validated in DRIVES before any BTW or BOSD training/testing session.

n) Home Study curriculums must:

1. meet the Departments minimum 30-hour curriculum requirements in section (201);

2. provide, in person or online, a final test that is administered prior to providing a TCS. Test questions must come from a pool of questions that are scrambled each time a student takes a test or quiz;

3. if the provider's main facility is out-of-state, maintain a branch office in Colorado containing student files and copies of TCSs with the DR 2052 Student Attendance Record for a 30-Hour Home Study Program form;

4. provide a TPE to each student upon successful completion of the course; and

5. not provide a TPE to a student unless the student receives a correct score of 80% or higher on the final test.

(301) BEHIND-THE-WHEEL TRAINING

a) Class R vehicles used by a CCDS for BTW training must:

1. be equipped as required in section 42-2-602, C.R.S.;

2. be registered and insured as required in article 3 of title 42 and article 4 of title 10;

3. be available for inspection and audit and, if found to be out of compliance with requirements, the vehicle cannot be used for BTW until such time as requirements are met; and

4. be available for inspection by the Department prior to certification of a CCDS, or if obtained after certification, be available for inspection prior to use.

b) All BTW lessons must be in vehicles owned/leased by the CCDS. BTW training must not be conducted in a student's or instructor's private vehicle.

c) Appointment times must not be used as actual start and finish times for BTW training. BTW training must be recorded on a DR 2070 Student Drive Time Log, which must be attached to the BTW TCS.

d) For a CCDS to become certified to teach BTW, a CCDS must submit a BTW curriculum in a lesson plan format to the Department for approval.

(302) CERTIFIED COMMERCIAL DRIVING SCHOOLS OFFERING INTERNET PROGRAMS

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

b) The curriculum of CCDSs offering internet programs must equal or exceed the current minimum standards of the Department and be approved by the Department prior to being sold in the State of Colorado.

c) All CCDSs offering only internet programs must enter into a contract with the Department and be certified as a CCDS, and are not eligible to be certified as a BOSTO or a BOST Tester.

d) All CCDSs offering internet programs must maintain an office in Colorado containing student files available for audits. Copies of TCSs must be stapled in the upper left corner to an attendance record showing at least 30 hours of participation, all quiz and test scores, and the name and date of birth of the student. The form of the attendance record must be approved by the Department prior to use and must be maintained with the student files.

e) If a CCDS contracts with another CCDS to sell the other CCDS's online product, then the selling CCDS must submit a copy of the contract to the Department within 10 days of the date on which the contract was fully executed.

f) Each CCDS must provide the DTE manager and auditor a user name and password that will allow random audits of student records, test scores, curriculum, and security protocols.

g) All internet material must contain an explanation of current Colorado laws including:

1. minor permit issuance;

2. BTW requirements; and

3. requirements for licensure.

h) Internet programs will be monitored to ensure applicants had the opportunity to review the curriculum for the required number of hours prior to issuance of a TPE.

i) Each internet chapter/section must have a question embedded in it that does not allow progression if a student does not correctly answer the embedded question.

j) After two failed attempts to pass a test/quiz, students must review previous material.

k) A final test must be administered prior to entering a TCS. Test questions must come from a pool of questions that are scrambled each time a student takes a test or quiz.

l) Students must be shown the correct answers to each question they missed on tests and quizzes prior to re-testing.

m) Students must receive a correct score of at least 80% or higher before being allowed to go to the next module/section, or being issued a TPE.

(303) EDAP/DAP PROGRAMS

a) All entities that teach the EDAP/DAP for the purpose of qualifying students for a Colorado minor's instruction permit must be a CCDS and, except as otherwise provided in subsection 201(b) of this rule, meet CCDS curriculum and statutory requirements.

b) DAP must be approved through the National Safety Council and remain in good standing with the NSC rules, regulations, and teaching standards, and must be provided by a CCDS and meet CCDS curriculum and statutory requirements.

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

(304) ADVERTISING

a) Advertisements and CCDS employees must not state or imply that a CCDS can issue, or guarantee the issuance of, a Colorado driver license or permit.

b) Advertisements and CCDS employees must not state or imply that a CCDS, or the employee, has influence over the Department in the issuance of a Colorado driver license or permit.

c) No CCDS, BOST Tester, BOSTO or CCDS employee or agent is permitted to solicit or advertise on the premises of a Colorado driver license office.

d) Use of the Colorado State seal/logo by a CCDS is strictly prohibited.

e) CCDSs must not advertise a business practice that violates any Colorado Revised Statute or rule, or regulation.

(305) CONTRACTS

a) All contracts for driver education between a CCDS and any individual or entity must contain, at a minimum, the following:

1. CLASSROOM INSTRUCTION: package rate, the available dates or the website where dates can be found, times and length of each lesson, and the total number of hours of instruction;

2. INTERNET OR HOME STUDY: mandated completion date if any, the total cost, and a telephone contact number and the times technical and/or informational help is available;

3. BEHIND-THE-WHEEL LABORATORY: package rate, the length of each lesson, the total number of hours, and the rate for any vehicle charges. Cancellation or rescheduling policies must be included. Contracts must extend for at least 12 months from the date of permit issuance;

b) All contracts for driver education and testing must contain:

1. A statement that reads: “This agreement constitutes the entire contract between the school and the student, and any verbal assurances or promises not contained herein are not binding on either the school or the student.”

2. A statement that reads: “Under this agreement an instructor may not provide behind-the-wheel training to more than two individual students per session.”

(400) BOSTO AND BOST CERTIFICATION

a) A CCDS that is listed as a full-time school (teaches required 30 hours of curriculum and offers six- hours of BTW instruction) with the Department may apply for certification as a BOSTO. Testing must be equal to the training and examination offered by the Department. Section 42-2-111(1) (b), C.R.S.

b) Before applying for BOSTO certification, a CCDS must issue 25 student classroom TPE Statements and ten six-hour BTW TPE Statements for students under the age of 18.

c) BOSTO certifications must be renewed annually before the current certification expires.

d) To renew a BOSTO certification, a CCDS must demonstrate that it has provided 30 hours of classroom training in driver education for at least 50 students and six-hours BTW completion for 25 students under the age of 18 for the preceding Fiscal Year. The Department will not renew the BOSTO written and drive testing privileges of a CCDS until it meets such requirement. A CCDS in a rural area with limited population may apply for a variance.

e) Owning or operating a CCDS does not confer certification to administer the BOSW or BOSD for the State of Colorado. BOSW or BOSD can only be administered by a CCDS certified as BOSTO by the Department.

f) Requests for training and certification as a BOST Tester:

1. must be submitted by completing a typed DR 2068 BOST/RST/Continuing Education Training Registration Form;

2. each CCDS employee seeking training and certification as a BOST Tester must:

   i. be at least 21 years of age; and

   ii. have a valid Colorado driver license; and

      A. must not have a personal driving record showing the accumulation of eight or more points or a suspension or revocation of driving privileges in the preceding three-years.

g) All TCSs must be kept by the CCDS in a secure location and remain under the control of the CCDS.

h) Upon successful completion of the driving skills tester training course by a Certified Employee, and a CCDS having met all additional company training and Department requirements, the Department may certify a CCDS as a BOSTO and a CCDS's employee as a BOST Tester.

i) A CCDS must have at least one employee certified as a BOST Tester to maintain BOSTO certification.

j) In the event the BOSTO certification for a CCDS is not renewed, or is revoked or suspended, all individual BOST Tester certifications for that BOSTO will be cancelled.

k) A CCDS may request their BOSTO certification or the BOST Tester certification of any employee be canceled by notifying the Department in writing. Cancellation of a certification does not nullify any of the terms of the contract between the CCDS and the Department.

l) CCDSs must ensure that all their BOST Testers continue to meet the training and qualification standards required to conduct BOST tests. Failure of a tester to attend scheduled training may result in suspension of testing privileges.

m) CCDSs must ensure that each BOST Tester they employ follows the Department's standards for administering BOSTs.

n) Written knowledge and driving skill tests administered by a BOST Tester must be equal to the training and examination conducted by the Department. Section 42-2-111(1)(b), C.R.S.

o) A BOSTO may be suspended from administering a BOSD, BOSW or both.

p) A BOST Tester may be employed by more than one CCDS certified as a BOSTO. A BOST Tester employed by more than one CCDS certified as a BOSTO will be issued a separate tester number for each CCDS employing the BOST Tester. A BOST Tester certification is valid only while the BOST Tester is employed by the CCDS listed on the certificate.

q) The Department reserves the right to retest any student/applicant if an audit indicates that the test was not properly administered, or not administered at all.

r) A BOST Tester must use only their own login and password to access DRIVES.

s) A BOST Tester must not authorize any person to use his/her login or password.

t) A BOST Tester must refer the following applicants to a Colorado driver license office:

   1. an applicant requesting a required skills test upon completion of a rehabilitation program;

2. ~~an applicant requesting a BOSD after having failed four previous BOSDs;~~

3. an applicant requesting a DR 2252 (English) or DR 2273 (Spanish) Driver's License Written Examination after four failed attempts;

4. ~~an applicant whose driver license is currently under restraint;~~

5. an applicant with a valid license that does not have a letter from the Department requiring ~~requesting~~ a test;

6. ~~an applicant using a one-day permit;~~

7. an applicant ~~who's~~whose permit or license is not valid;

8. an applicant unable to produce a photo ID; or

9. ~~an applicant with an expired temporary permit.~~

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

a) BOSD routes must be approved in writing by the Department prior to certification of a CCDS as a BOSTO. BOST Testers must administer the BOSD only on routes approved by the Department for the BOSTO employing the BOST Tester. BOSTOs must request and receive approval from the Department in writing for any changes to an approved drive route prior to administering a BOSD.

b) A BOSTO that has multiple physical locations must request approval for each route prior to testing. Testing on an approved test route must begin from an approved teaching location that offers at least 20 hours of BTW per week and a 30-hour curriculum class.

c) Two approved BOSD routes are required from each approved teaching location.

d) BOSTOs are required to maintain copies of approved drive routes in their files in the Department approved format.

e) BOST testers must use all routes on an equal basis. Any testing on a route not previously approved may result in suspension or revocation of the BOSTO and/or BOST Tester's certification.

f) Using approved testing routes as a "pre-test" or as BTW practice for students may result in suspension or revocation of a BOST Tester's certification.

g) Only BOST Testers may administer the BOSD and sign the DR 2732 Basic Operator Driving Skill Test score sheet confirming test completion.

h) BOST Testers must complete all testing forms accurately.

i) The BOSTO must ensure that BOST Testers complete all testing forms accurately and ensure information is entered into DRIVES accurately.

j) A Certified Employee entering test results to produce a TCS constitutes a representation by the Certified Employee that the applicant whose name is on the TCS took the BOSD.

k) BOSTOs must hold the State harmless from liability resulting from a BOST Tester's administration of the BOSD.

l) Prior to administering any BOSD, the BOST Tester administering the test must ensure applicants have a valid driving permit or license (with a letter from the Department requiring a test) in their immediate possession and the BOST Tester must validate the permit~~/license~~ in DRIVES.

m) A road test is not allowed if an applicant does not meet statutory licensing requirements. Testing an applicant before they meet the statutory requirements and/or postdating a DR 2732 Basic Operator Driving Skill Test score sheet is grounds for suspension or revocation of BOST Tester's certification.

n) BOST Testers must verify that any Class R vehicle used for testing:

1. is properly registered and insured. Both the insurance and the registration cards must be in the vehicle and match the vehicle identification numbers; insurance verification can be digital.

2. has both front and rear license plates attached to the outside of the vehicle; or temporary tags must be visible from the back of the vehicle;

3. has passed a safety inspection by the BOST Tester to ensure all necessary equipment is in safe operating order, and that the vehicle meets all applicable Colorado Revised Statutes for operation on a public roadway;

4. is inspected for compliance with this subsection prior to every BOSD, regardless of who owns the vehicle; and

5. is either registered to the BOSTO as a training vehicle for BTW training or a vehicle provided by the applicant.

o) Prior to administering a BOSD, a Certified Employee must complete the information section of the DR 2732 Basic Operator Driving Skill Test score sheet including the date of the test, the name of the applicant, the vehicle, the organization, the tester information, and the BOST Tester, after the instructions have been read verbatim, fill in the start time on the score sheet. Once the car has been secured at the end of the BOSD, the finish time and applicant's score must be written on the score sheet, even if the applicant has failed the test. No alterations can be made to the DR 2732 after the BOSD has been completed.

p) Applicants and BOST Testers are prohibited from smoking/vaping, drinking, or eating during a BOSD. All electronic devices and cell phones must be silenced during the test.

q) BOST Testers must conduct a full BOSD in accordance with Colorado Revised Statutes, rules, contract, and BOST Standards. All tests must be recorded on DR 2732 Basic Operator Driving Skill Test score sheet provided by the Department.

r) BOSDs must be done during daylight hours. For purposes of this rule, daylight hours means the period between one-half hour before sunrise and one-half hour after sunset.

s) After a BOSD is completed, the BOST Tester must immediately critique the applicant's performance on the test, in a location outside of the vehicle. If the applicant is a minor, the critique must be done in the presence of the parent/guardian if the parent/guardian is present.

t) Upon successful completion of a BOSD, a Certified Employee must immediately enter information into DRIVES and provide the applicant with the TPE. The Certified Employee must staple the TCS to the upper left of the DR 2732 Basic Operator Driving Skill Test score sheet.

u) BOST Testers must note all failures on an applicant's DR 2732 Basic Operator Driving Skill Test score sheet and ensure all failures are entered into DRIVES immediately after the test is completed.

v) An applicant under 18 years of age holding an out of state instruction permit may take one BOSD with a BOSTO on the permit if the minor has met the statutory requirements. An applicant 18 years of age or older with an out of state instruction permit cannot be tested by a BOST Tester.

w) A BOST Tester must not administer more than one complete BOSD per day to any applicant.

Giving an applicant more than one BOSD per day may result in suspension of the tester's certification.

x) No passengers, pets (service dogs excluded), or interpreters may be in a vehicle during BOSD. Occupants in a vehicle during a BOSD are limited to the applicant and the tester, with the following exceptions:

1. A Department representative may be in the vehicle when an audit is being performed for quality assurance purposes; or

2. Another BOST Tester may be in the vehicle for training and evaluation purposes, if prior notification was given to the Department.

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

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

a) BOST Testers administering the BOSW must ensure the TPE is issued to the applicant upon completion of the BOSW.

b) BOST Testers administering the DR 2252 or DR 2273 Driver's License Written Examination:

1. must administer BOSW only at a business location pre-approved by the Department;

2. must ensure that applicants do not access any unauthorized assistance, including but not limited to, written material, cell phones, or electronic devices, or communicate with any unauthorized person while testing;

3. must require applicants to write their first and last name(s), date of birth, and the date of the BOSW in the information box provided on the BOSW, and interpreters, including BOST Testers acting as an interpreter, must write their first and last name(s) and driver license number on the back of the BOSW. The BOSW Tester administering the BOSW must print and sign certifying they have proctored the test;

4. must require a correct score of 80% or higher to pass;

5. must grade correctly using the score key when grading a DR 2252 or DR 2273 Driver's License Written Examination;

6. must use a red pen unless the BOSW is graded electronically;

7. may provide up to four DR 2252 or DR 2273 Driver's License Written Examinations per applicant in total including written examinations taken at other CCDSs. An applicant may not take more than two tests per day, regardless of whether it is at one location or separate locations. If an applicant fails four DR 2252 or DR 2273s, regardless of when or at which locations the DR 2252 or DR 2273s are completed, all subsequent paper DR 2252 or DR 2273 Driver's License Written Examinations must be taken at a Department driver license office. The four-test limit does not apply to electronically completed BOSWs;

8. must ensure that if an applicant fails the first BOSW with the BOSTO, then all subsequent BOSWs must be a different version~~s~~. If an applicant misses more than 50% of the questions on a first test attempt, the applicant must wait until the next day to test again; and

9. must ensure every BOSW result is entered into DRIVES immediately regardless of pass or fail upon completion of the BOSW.

c) Applicants may use an interpreter for the BOSW.

d) An interpreter must be at least 16 years old and show an unexpired driver license from any state in the United States.

e) The BOST Tester or other interpreter can interpret in the required language and can only interpret the questions and answer choices.

f) The BOSW must not be given to any applicant under the age of 14 years and 11 months.

g) BOSWs must not be used as “class final exam”, “practice” or “pre” tests.

h) BOSWs may not be copied outside the physical facilities unless the BOSWs remain under the direct supervision and control of a BOSTO.

i) Test results must not be partially or fully entered until after a student has completed the BOSW.

j) BOST Testers administering the BOSW must periodically check with the Department to confirm they have the most current version of tests/keys.

k) BOSWs must be administered by a BOST Tester with a BOSW certification.

l) The BOST Tester whose name, signature and tester number is on the back of the DR 2252 (English) or DR 2273 (Spanish) Driver’s License Written Examination must accurately grade the BOSW.

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

(403) BOST TESTER REQUIREMENTS

a) The Department will not renew the certification of BOST Tester who has not administered a minimum of 24 BOSDs each Fiscal Year.

1. A BOST Tester who does not meet this minimum requirement prior to July 1st may be renewed if he/she successfully completes a one-day continuing education within the first six months of the next Fiscal Year.

2. A BOST Tester who fails to successfully complete the continuing education within the first six months of the next Fiscal Year must successfully complete a two-day continuing education as a condition of renewal.

b) Failure to complete the minimum number of BOSDs will result in suspension of a tester’s certification until successful completion of the required continuing education.

c) All BOST Testers must possess and maintain a valid unrestricted State of Colorado driver license prior to certification, and be at least 21 years of age.

d) BOST Testers must recertify their BOSD certification with the Department every two calendar years. Failure to attend a Department continuing education class or recertifying event within a two-year period may result in suspension of a tester's certification until continuing education has been successfully completed. Proof of continuing education must be kept by a BOSTO in the BOST Tester’s file for periodic review by the Department.

e) BOST Testers cannot administer any BOST to a member of their immediate family. “Immediate family” is defined at section 42-1-102(43.5), C.R.S.

f) A potential BOSD Tester:

1. must complete and pass the BOST training class;

2. must show proof of four shadow drives on each route the tester will be using for BOSDs

documented by a typed DR 2069 Shadow Cover Page (all within three errors as documented by another BOST Tester); and

3. must complete all Shadow Drives within six weeks of passing the BOST training class.

g) To be eligible for a BOST class, a potential BOSD Tester must have conducted at least 24 hours of BTW training or been employed by a BOSTO for at least one year.

h) Applicants failing the BOSD with a BOST Tester must be re-tested by a different BOST Tester (The Department may waive this requirement upon request if the Department determines that this would be a hardship).

i) BOST Testers will be evaluated on their ability to meet Department grading standards for BOSDs. The evaluation may be conducted during an actual BOSD or a BOSD with a Department representative as the driver. BOST Testers must follow Department procedures, meet Department standards, and must pass the evaluation with a score of 80% or higher. Failure to pass the evaluation will be grounds for the Department to require additional continuing education and/or suspension of the BOST Tester certification.

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

(500) RECORDKEEPING AND REPORTING

a) CCDSs and BOSTOs must use only the most current version of Department forms and must account for all TCS, testing, and training forms.

b) Audited records must be stored securely for a period of three years. Records include all contracts, records of student enrollment, DR 2045 Attendance Records, DR 2046 Attendance Records, and DR 2052 Attendance Records, DR 2070 Student Drive Time Logs, DR 2252 (English versions 1-4) and DR 2273 (Spanish versions 1-4) Driver's License Written Examinations, DR 2732 Basic Operator Driving Skill Test score sheets, progress reports, student TCSs, and control numbered forms previously issued by the Department.

c) Student/parent contracts, progress reports and student enrollment records may be stored electronically after they have been audited.

d) After three years all testing records must be shredded.

e) All required testing information must be entered into DRIVES immediately, including passed and failed examinations.

f) Training information (including driver education, EDAP/DAP, and BTW) must be entered into DRIVES within two business days of the student's completion.

g) All TCSs must be maintained in chronological (date) order by submitted date and separated by exam type.

h) CCDSs, BOSTOs, and Certified Employees are responsible for securing all blank training/testing forms, all TCSs, and passwords/logins associated with DRIVES.

i) Post-dating, pre-dating, or partial completion of any testing/training form is not allowed.

j) The CCDS is responsible for inaccurate/missing entries into DRIVES.

(600) AUDITING

a) CCDSs must allow the Department to observe classroom instruction and BTW training.

b) CCDSs are required to allow onsite inspections, examinations, and audits by a Department representative without prior notice in order to:

1. review all required documentation, including, but not limited to, all TCSs, DR 2045 Attendance Records, DR 2046 Attendance Records, and DR 2052 Attendance Records, DR 2070 Student Drive Time Logs, DR 2252 (English versions 1-4) and DR 2273 (Spanish versions 1-4) Driver's License Written Examinations and DR 2732 Basic Operator Driving Skill Test score sheets;

2. observe classroom instruction;

3. observe BTW instruction;

4. inspect Class R vehicles;

5. observe and score live road testing by a BOST Tester and compare pass/fail scores;

6. test the skills of BOST Testers who administer the BOSD; and

7. observe administration of the BOSW.

c) A CCDS must surrender all required documentation to the Department upon request. The CCDS may make copies and retain copies of such documentation.

d) Audits may be conducted at the CCDS's or BOSTO's office, the Department, or at another location as determined by DTE.

e) To assure that CCDSs and BOSTOs continue to meet the standards established by the Department, a Department representative will conduct on-site inspections, examinations, and audits as often as the Department deems necessary and without prior notice, to review all required documentation, including but not limited to, contracts, student enrollment and progress records, DR 2045 Attendance Records, DR 2046 Attendance Records, and DR 2052 Attendance Records, DR 2070 Student Drive Time Logs, student completion records, classroom facilities, vehicles, and DR 2252 (English versions 1-4), DR 223 (Spanish versions 1-4) Driver's License Written Examinations, and DR 2732 Basic Operator Driving Skill Test score sheets. Records will be checked for accuracy and completeness, including, but not limited to, missing TCSs and, in the case of TCSs, for chronological filing sequence by submitted date.

f) During Department audits, CCDSs and BOSTOs must cooperate with the Department, allow access to testing areas and routes, and supply student names and testing records, results, and any other regulated items as requested by the Department.

g) CCDS records must be accessible during the CCDS's normal business hours and made available to a Department representative upon request.

h) A CCDS must provide a TCS for each DRIVES entry with attached testing/training forms immediately if requested by the Department.

i) A CCDS must sign and return any audit report within ten days of receipt.

(700) CERTIFICATION RENEWAL

a) CCDS and Certified Employee certifications must be renewed annually on or before June 30th.

b) CCDS contracts with the Department are subject to annual renewal.

c) Renewal applications are due on June 1st of each calendar year. Failure to submit a sufficient application on or before June 1st may result in a CCDS's or BOSTO's or BOST Tester's certification not being renewed, and the Department will not honor exams entered into DRIVES by the CCDS, BOSTO, or BOST Tester on or after July 1st.

d) Renewal applications must include a breakdown of the price of each package offered by the CCDS or BOSTO.

(800) SUSPENSION/ REVOCATION/ CESSATION OF BUSINESS

a) After a notice and hearing pursuant to the State Administrative Procedure Act [sections 24-4-101, et. seq., C.R.S.], a certification(s) may be suspended or revoked for violations of any applicable Colorado Revised Statute, Rule, Regulation, contract obligation, including but not limited to any of the following:

1. Failure to return all copies of written knowledge tests and keys, certifications, and any testing/training documents within ten days of cessation of business;

2. Failure to immediately enter testing results into DRIVES;

3. Failure to enter training results into DRIVES within two business days of completion;

4. Failing to comply with the registration, insurance, and equipment requirements of BTW Training;

5. Refusing to be audited;

6. Failure to address and/or correct deficiencies found in a previous audit or failing two or more audits. The Department's failure to take action based on an audit does not waive the Department's authority to take action later based on that audit;

7. Supplying false information to the Department, or fraudulent testing or the fraudulent use of testing/training forms and/or TCSs;

8. Omitting any test requirement from a BOSW or BOSD;

9. Participation in any illegal activity related to driver licensing; and

10. Incorrectly entering a test as a pass when it should have been a fail or entering a fail when it should have been a pass.

b) Any information obtained by the Department concerning illegal or fraudulent activity concerning, but not limited to written knowledge or driving skills testing, will be referred to the appropriate law enforcement authority.

c) If an applicant's testing was improper, illegal, or fraudulent, the applicant's driver license or instruction permit may be canceled.

d) Where the Department has objective and reasonable grounds to believe and finds, upon a full investigation, that a CCDS, BOSTO, or BOST Tester has been guilty of deliberate and willful violation, or that the public health, safety, or welfare imperatively requires emergency action, and incorporates the findings in its order, it may summarily suspend the certification of the CCDS, BOSTO, or BOST Tester pending proceedings for suspension or revocation which shall be promptly instituted and determined. For purposes of this subsection, "full investigation" means a reasonable ascertainment of the underlying facts on which the Department action is based.

1. Upon receipt of a summary suspension, a CCDS, BOSTO or BOST Tester must immediately cease all testing as directed. The Department will promptly institute proceedings for suspension or revocation pursuant to the Administrative Procedure Act.

e) Written complaints about a CCDS, BOSTO, or BOST Tester received by the Department may result in an investigation through the Department or the Motor Vehicle Investigative Unit.

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

(900) GRANDFATHER PROVISIONS

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

(950) INCORPORATION BY REFERENCE

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