

## **DEPARTMENT OF REVENUE**

### **Division of Motor Vehicles**

#### **DRIVER'S LICENSE – DRIVER CONTROL**

##### **1 CCR 204-30**

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

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

##### **Purpose**

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

##### **Statutory Authority**

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

##### **Incorporation By Reference Of Federal Law**

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

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a certified copy, of such Act is also available from the United States Citizenship and Immigration Services ("USCIS") Historical Reference Library at 111 Massachusetts Avenue NW, First Floor (MS2180), Washington, DC 20529-2180.

##### **(100) Definitions**

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

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

**(200) Qualifications for CO-RCSA Identification Documents**

- a) Pursuant to section 42-2-506, C.R.S., individuals claiming to be temporarily lawfully present in the United States who apply for an Identification Document, must:
  1. Provide documents that demonstrate the applicant's identity, date of birth, full legal name and temporary lawful presence, for example:

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

document must not be older than 12 months from date of application), one for residency from one year prior (date on the document must be later than 12 months, but not later than 23 months prior to the date of application), and one for residency from two years prior (date on the document must be later than 23 months, but not later than 30 months prior to the date of application).

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

1. All interpreters for applicants applying for a CO-RCSA driver's license, minor driver's license, or instruction permit must be at least 16 years old and show an unexpired driver's license or identification card from any state in the United States or any document provided in Section 200 (b)(5).
- e) A Colorado street address must be displayed except as provided below:
1. An alternative address may be displayed for individuals for whom a State law, regulation, or DMV procedure permits display of an alternative address.
  2. An alternative address may be displayed for individuals who satisfy any of the following:
    - i. If the individual is enrolled in the Colorado Address Confidentiality Program, which allows victims of domestic violence, dating violence, sexual assault, stalking, or a severe form of trafficking, to keep, obtain and use alternative addresses; and provides that the address of such person must be kept confidential; or
    - ii. If the individual is entitled to have their address suppressed under state or federal law or suppressed by a court order including an administrative order issued by a State or Federal court; or
    - iii. If the individual is protected from disclosure of information pursuant to section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
  3. In areas where a number and street name has not been assigned for U.S. mail delivery, an address convention used by the U.S. Postal Service is acceptable.

**(300) Process for Translation**

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

- e) Applicants are responsible for all costs of translation.

**(400) Fee Structure**

- a) For those who cannot demonstrate lawful presence, the fee for a CO-RCSA driver's license or a minor driver's license is \$33.00, which includes an additional fee to cover direct and indirect costs. The cost for a CO-RCSA instruction permit is \$21.00, which includes an additional fee to cover direct and indirect costs. The cost for a CO-RCSA identification card is \$13.00, which includes an additional fee to cover direct and indirect costs.
- b) For those who can demonstrate temporary lawful presence, the cost for a CO-RCSA driver's license or minor driver's license under section 42-2-506, C.R.S. is \$29.40.
- c) For those who can demonstrate temporary lawful presence, the cost for a CO-RCSA instruction permit is \$17.64. The cost for a CO-RCSA identification card is \$12.07.

**(500) Qualifications for Renewal**

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

**(600) Qualifications for Issuance of a Duplicate Credential**

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

1. Applicants must appear in person and certify, under penalty of perjury, that the previous credential was lost, stolen, or destroyed by completing the "Request for Duplicate Instruction Permit/Driver License" (DR2989) form provided by the Department.
2. Eligible applicants may submit an electronic application, on which the applicant must certify, under penalty of perjury, that the previous credential was lost, stolen, or destroyed.
3. Applicants must present proof documents as required in Section 200 above except that proof of ITIN ~~or SSN~~ is not required if proof of ITIN ~~or SSN~~ was provided for issuance of a previous Identification Document.
4. A duplicate will not be issued to an applicant with a lawful presence status that has changed since issuance of the previous credential. A change of lawful presence status requires renewal.

**(700) Electronic Applications**

- a) The Department may accept electronic applications for services provided electronically.
- b) The Department may accept an application electronically, if the applicant's fingerprint was captured as part of a previous application.
- c) The Department may accept an application electronically, if a signature was captured as part of a previous application and if the applicant verifies the information on the application.

**(800) Process for Complete Application**

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

**(900) Process for Incomplete Application**

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

**(1000) Denial of Application**

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

**(1100) Hearing and Final Agency Action**

- a) An applicant who has received a Notice of Denial may, within 60 days of the date of the Notice of Denial, request a hearing on the denial by filing a written request for hearing with the Hearings Section of the Department at 1881 Pierce St. #106, Lakewood, CO 80214.
- b) Hearings shall be held in accordance with the provisions of the State Administrative Procedure Act, and the provisions of Title 42 of the Colorado Revised Statutes.
- c) The only issue at a hearing shall be whether the Applicant has satisfied federal and state requirements for the issuance of an Identification Document.
- d) The hearing officer shall issue a written decision. If the hearing officer finds that the applicant has not satisfied federal and state requirements for the issuance of an Identification Document, then the denial shall be sustained. If the hearing officer finds that the applicant has satisfied requirements for the issuance of an Identification Document, then the denial shall be rescinded and the Department shall issue an Identification Document.
- e) The decision by the hearing officer shall constitute final agency action, and is subject to judicial review as provided by section 24-4-106, C.R.S.