

R-39 Rev. 03/2012
(Title page)

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

Department of Motor Vehicles

Concerning

SUBJECT MATTER OF REGULATION

Motor Carrier Safety Regulations

Section 1. Sections 14-163c-1 through 14-163c-2 of the Regulations of Connecticut State Agencies are amended and the following is substituted in lieu thereof:

Sec. 14-163c-1. Adoption of regulations

(a) The following parts of Title 49 of the Code of Federal Regulations [,Title 49,] are incorporated by reference [thereto] hereto as regulations of the Department of Motor Vehicles:

- (1) Part 382, "Controlled Alcohol Use and Testing", as amended from time to time;
- (2) Part 383, "Commercial Driver's License Standards; Requirements and Penalties," [inclusive,] as amended from time to time;
- (3) Part 384, "State Compliance with Commercial Driver's License Program," [inclusive,] as amended from time to time;
- (4) Part 385, "Safety Fitness Procedures," [inclusive,] as amended from time to time;
- (5) Part 386, "Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings," [inclusive,] as amended from time to time;
- (6) Part 387, "Minimum Levels of Financial Responsibility for Motor Carriers," [inclusive,] as amended from time to time;
- (7) Part 388, "Cooperative Agreements with States," [inclusive,] as amended from time to time;
- (8) Part 390, "Federal Motor Carrier Safety Regulations; General," [inclusive,] as amended from time to time;
- (9) Part 391, "Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors," [inclusive,] as amended [, except as provided in subsection (b) of this section] from time to time;
- (10) Part 392, "Driving of Commercial Motor Vehicles," [inclusive,] as amended from time to time;
- (11) Part 393, "Parts and Accessories Necessary for Safe Operation," [inclusive,] as amended from time to time;
- (12) Part 394, "Removed and Reserved," [inclusive,] as amended from time to time;
- (13) Part 395, "Hours of Service of Drivers," [inclusive,] as amended from time to time;
- (14) Part 396, "Inspection, Repair and Maintenance," [inclusive,] as amended from time to time; and

(15) Part 397, "Transportation of Hazardous Materials; Driving and Parking Rules," [inclusive,] as amended from time to time.

[(b) The incorporation of the Code of Federal Regulations, Title 49, Part 391, Subpart E - "Physical Qualifications for Drivers," Sections 391.41 through 391.49, inclusive, does not include the exemptions that are provided by federal law for individuals who do not operate a commercial motor vehicle in interstate commerce.]

Sec. 14-163c-2. Application of regulations

The regulations adopted in accordance with section 14-163c-1 of the Regulations of Connecticut State Agencies shall apply to:

- (1) Any motor vehicle in intrastate commerce [which] that has a gross vehicle weight rating, or gross combination weight rating, or gross vehicle weight or gross combination weight, of eighteen thousand one (18,001) or more pounds;
- (2) Any motor vehicle in interstate commerce [which] that has a gross vehicle weight rating, or gross combination weight rating, or gross vehicle weight or gross combination weight, of ten thousand one (10,001) or more pounds;
- (3) Any motor vehicle that is designed or used to transport more than eight (8) passengers, including the driver, for compensation;
- (4) Any motor vehicle [which] that is designed to transport more than fifteen (15) passengers, including the driver [;] and is not used to transport passengers for compensation;
- [(4)] (5) Any motor vehicle [which] that is used in the transportation of hazardous materials in a quantity such as to require placarding of the vehicle under the Hazardous Materials Transportation Act, 49 USC App. Sections 1801-1813, inclusive;
- [(5)] (6) A person who holds a commercial driver's license or who operates any motor vehicle as described in subsections (1) through [(4)] (5) of this section; and
- [(6)] (7) A motor carrier as defined in [the Code of Federal Regulations, Title 49, Part 390, Section] 49 CFR Section 390.5, as amended from time to time, [which] that is responsible for the operation of any motor vehicle or the driver thereof as provided in subsections (1) through [(5)] (6) [,inclusive,] of this section.

Sec. 2. Sections 14-163c-4 through 14-163c-12, inclusive, are amended and the following is substituted in lieu thereof:

Sec. 14-163c-4. Minimum age of operator

Insofar as the provisions of [Section 1] subsection 1 of section 14-163c-2 of the Regulations of Connecticut State Agencies apply to vehicles employed solely in intrastate use, the minimum age of an operator as stated in [Code of Federal Regulations, Title 49, Part 391, Section] 49 CFR Section 391.11 (b) (I), shall be [18] eighteen (18) years old in lieu of [21] twenty-one (21) years old. This section shall not apply to the operators of any vehicles designed or used to transport more than fifteen (15) passengers, including the driver, or any school bus as defined in section 14-275 of the Connecticut General Statutes, or any vehicle that is used in the transportation of hazardous materials in a quantity such as to require the placarding of the vehicle under the Hazardous Materials Transportation Act, 49 USC App. Sections 1801-1813, inclusive, as amended from time to time.

Sec. 14-163c-5. Motor vehicle out-of-service condition

(a) Any motor vehicle identified in accordance with the provisions of subsections (1) through [(4)] (5) of [Section 2] section 14-163c- 2 of the Regulations of Connecticut State Agencies, which by reason of its mechanical condition or loading, and in accordance with

the provisions of [Code of Federal Regulations, Title 49, Part 396, Section] 49 CFR Section 396.9, is determined by a person having inspection authority as defined in [Section] section [8] 14-163c-9 of the Regulations of Connecticut State Agencies to be so unsafe as to likely cause an accident or breakdown, or when such mechanical condition or loading would likely contribute to loss of control of the vehicle by the [driver] operator, shall be issued an out-of-service order.

(b) Standards for inspection and declaration of an out-of-service order of a motor vehicle as provided in subsection (a) of this section shall be in accordance with the most recent revision of the Commercial Vehicle Safety Alliance publication entitled ["North American Uniform Out-of-Service Criteria"] "North American Standard Out-of-Service Criteria" including Part II thereof entitled "North American [Uniform] Standard Vehicle Out-of-Service Criteria", [and] Part III thereof entitled "North American Standard Hazardous Materials Out-of-Service Criteria" and Part IV thereof entitled "North American Standard Administrative Out-of-Service Criteria". Reference to said publication and its use in connection with motor vehicle inspections shall be in accordance with [the] 49 CFR Section 385.4, the provisions of Appendix G to Subchapter B of Title 49 of the Code of Federal Regulations[, Title 49,] or the North American Standard Inspection procedures as prescribed in the Commercial Vehicle Safety Alliance Operating Policies.

Sec. 14-163c-6. Motor vehicle out-of-service infraction

(a) Violation of any of the standards adopted in accordance with [Section 1] section 14-163c-1 of the Regulations of Connecticut State Agencies for which a motor vehicle is [placed] declared out-of-service shall be an infraction.

(b) A complaint for a violation of subsection (a) of this section may be issued by a person with inspection authority as defined in [Section 9] section 14-163c-9 of the Regulations of Connecticut State Agencies to the motor carrier or to the owner [or], lessee or operator of such motor vehicle.

Sec. 14-163c-7. [Driver] Operator out-of-service condition

(a) Each [driver] operator of a motor vehicle listed in subsection (1) through [(4)] (5) of [section 2] section 14-163c-2 of the Regulations of Connecticut State Agencies shall conform to the [out-of-service criteria of the Code of Federal Regulations, Title 49, Part 395, Section 395.13, in accordance with the] standards [provided in the] adopted in accordance with section 14-163c-1 of the Regulations of Connecticut State Agencies that are applicable to such operator. Any operator found to be noncompliant with such standards and criteria established in the most recent [edition] revision of the Commercial Vehicle Safety Alliance publication entitled ["North American Uniform Out-of-Service Criteria," Part I,] "North American Standard Out-of-Service Criteria" including Part 1 thereof entitled "North American [Uniform] Standard Driver Out-of-Service Criteria"[,] shall be declared out of service.

(b) Standards for operator inspection and declaration of an out-of-service order for such operator as provided in subsection (a) of this section shall be those from the most recent revision of the Commercial Vehicle Safety Alliance publication entitled "North American Standard Out-of-Service Criteria", including Part 1 thereof entitled "North American Standard Driver Out-of-Service Criteria."

Sec. 14-163c-8. [Driver] Operator out-of-service infraction

(a) Any [driver] operator to whom an out-of-service order has been issued by a person with inspection authority as defined in section 14-163c-9 of the Regulations of Connecticut State Agencies for violations of any of the standards adopted in accordance with section 14-163c-1 of the Regulations of Connecticut State Agencies shall have committed an infraction.

(b) Such violations, referred to in subsection (a) of this section, for which an infraction complaint may be issued, include but are not limited to the following:

- (1) Operating a commercial motor vehicle in violation of the out-of-service order as prescribed in 49 CFR Section 395.13(d);
- (2) Operating a commercial motor vehicle transporting hazardous materials requiring placards or operating a motor vehicle designed to transport [16] (sixteen) (16) or more passengers including the driver in violation of the out-of-service order as prescribed in 49 CFR Section 395.13(d);
- (3) Operating a commercial motor vehicle that has been declared out of service in violation of the out-of-service order as prescribed in [49CFR396.9(c)(2)] 49 CFR Section 396.9(c)(2); and
- (4) Operating a commercial motor vehicle transporting hazardous materials requiring placards or operating a motor vehicle designed to transport [16] sixteen (16) or more passengers including the driver that has been declared out of service in violation of the out-of-service order as prescribed in [49CFR396.9(c)(2)] 49 CFR Section 396.9(c)(2).

Sec. 14-163c-9. Inspection authority

(a) A person having inspection authority shall mean any motor vehicle inspector [,] appointed by the commissioner in accordance with [Section] section 14-8 of the Connecticut General Statutes, or any state or municipal police officer[,], who has satisfactorily completed [forty] eighty (80) hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal [Highway] Motor Carrier Safety Administration, [Office of Motor Carriers,] in federal motor carrier safety regulations, North American safety inspection procedures[,], and [out-of-service criteria.] the Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria." As used in [Sections 1 through 12] sections 14-163c-1 through 14-163c-12 of the Regulations of Connecticut State Agencies, inspection authority means authorization to enter upon and perform inspections of motor carriers' vehicles in operation, to record the results of such inspections, to issue infractions for those parts specified in section [1] 14-163c-1 of the Regulations of Connecticut State Agencies, and to declare a motor vehicle or its operator "Out of Service" [as provided in the Title 49, Code of Federal Regulations, Part 395, Section 395.13, and Part 396, Section 396.9].

(b) A person having inspection authority as defined in subsection (a) of this section may enter upon and inspect the lands, buildings and equipment of persons subject to the provisions of [Section 1] section 14-163c-1 of the Regulations of Connecticut State Agencies, in accordance with law, to determine compliance with [such] the provisions [,] of 49 CFR Parts 100 to 199 and 49 CFR Parts 382 to 397, inclusive, as amended from time to time. Such persons subject to the provisions of [Section 1] section 14-163c-1 of the Regulations of Connecticut State Agencies, including motor carriers, may be required by the commissioner to submit for inspection and copying their accounts, books, records, memoranda, correspondence and other documents[, as such documents] that relate to the requirements and standards of [Section 1.] such section, the Federal Motor Carrier Safety Regulations, the Hazardous Material Regulations and other applicable Connecticut General Statutes.

(c) In order to maintain inspection authority, motor vehicle inspectors shall annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures[,], and out-of-service criteria. The type and extent of such training shall be as determined by the commissioner.

Sec. 14-163c-10. Exemptions from compliance

(a) The commissioner of motor vehicles may grant variations to or exemptions from, or approve equivalent or alternate compliance with, [any of the parts of the] Title 49 of the Code of Federal Regulations, [Title 49,] adopted in accordance with [Section 1] section 14-163c-1 of the Regulations of Connecticut State Agencies, when strict compliance with any of such provisions would entail practical difficulty or unnecessary hardship, or would be otherwise adjudged unwarranted.

(b) Any variation, exemption, approved equivalent or alternate compliance with the requirements of [Section 1] section 14-163c-1 of the Regulations of Connecticut State Agencies as provided in subsection (a) of this section shall be requested in writing and addressed to the Commissioner of Motor Vehicles, 60 State Street, Wethersfield, CT 06161-4010. Such request shall explain fully how strict compliance with the regulation would not serve the public interest, and how the requested modification or other change would maintain public safety no less secure than the compliance required by the original regulation. No such variation, exemption, approved equivalent or alternate compliance shall be permitted except as authorized in writing by the commissioner.

Sec. 14-163c-11. Violation

No motor carrier as defined in [Code of Federal Regulations, Title 49, Part 390, Section] 49 CFR Section 390.5, as amended from time to time, shall require nor shall any person operate any motor vehicle declared and marked "out-of-service" until all required repairs of violations [which] that resulted in the out-of-service condition have been completed. If as determined by the person having inspection authority, it is less hazardous to the public to relocate the vehicle, such vehicle shall be towed, transported or escorted only at the direction of such person having inspection authority.

Sec. 14-163c-12. Enforcement. Infraction

In addition to out-of-service infractions as provided in [Sections 6 and 8] sections 14-163c-6 and 14-163c-8 of the Regulations of Connecticut State Agencies, any person who violates any of the standards adopted in accordance with [Section. 1] section 14-163c-1 of the Regulations of Connecticut State Agencies [which does not require] who has not committed an out-of-service [order] violation shall have committed an infraction. A complaint for such violation may be issued by a person with inspection authority, [or by any police officer within his jurisdiction.]

Sec. 3. Section 14-163c-3 of the Regulations of Connecticut State Agencies is repealed.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

In response to an audit of CT DMV's motor carrier regulations by the Federal Motor Carrier Safety Administration, the modifications were necessary to be in conformance with the Federal Motor Carrier Safety regulations in this area of truck safety. The department also cleaned up outdated language contained in the regulations and made technical revisions for uniformity.

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(Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) Regulations Emergency Regulations
- 2) are (check all that apply) adopted amended repealed by this agency pursuant to the following authority(ies): (complete all that apply)

a. Connecticut General Statutes section(s) 14-163c.

b. Public Act Number(s) _____
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)

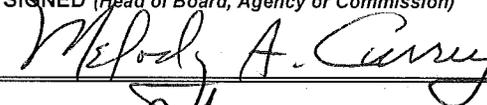
- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on April 16, 2013;
(Insert date of notice publication if publication was required by CGS Section 4-168.)

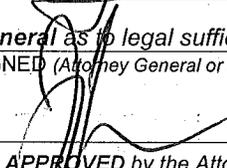
- 4) And that a public hearing regarding the proposed regulations was held on _____;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)

- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)

When filed with the Secretary of the State

OR on (insert date) _____

DATE <u>6/11/13</u>	SIGNED (Head of Board, Agency or Commission) 	OFFICIAL TITLE, DULY AUTHORIZED <u>Commissioner</u>
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended		
DATE <u>7/2/13</u>	SIGNED (Attorney General or AG's designated representative)  <u>Joseph Rubin</u>	OFFICIAL TITLE, DULY AUTHORIZED <u>ASSOC. ATTY. GENERAL</u>

Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

- Approved Rejected without prejudice
- Approved with technical corrections Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2.
 - a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
 - b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.