**COLORADO DEPARTMENT OF TRANSPORTATION**

**Colorado Department of Transportation: Transportation Safety and Engineering Services Branch**

**RULES GOVERNING THE A****UTOMATED VEHICLE IDENTIFICATION SYSTEM IN THE ENFORCEMENT OF TRAFFIC LAWS**

**2 CCR 601-27**

**1.00 Statutory Authority**

These rules are adopted pursuant to the authority in section 42-4-110.5, C.R.S.

**2.00 Scope and Purpose**

2.01 These rules govern the Colorado Department of Transportation (Department) use of Automated Vehicle Identification System (AVIS) on state and US highways and the Department’s administrative processes that govern and meet the requirements of section 42-4-110.5, C.R.S.

2.02 These rules include prioritization criteria that the Department will use to determine which entity is authorized to use an AVIS if multiple entities seek authorization to use an AVIS on the same portion of a state highway, the process that the Department will use to notify a county, city and county, or municipality that the state will be using an AVIS within its jurisdiction. These rules also establish, subject to the caps set forth in sections 42-4-110.5(4)(b) and (4.5), C.R.S., the amount of Civil Penalty imposed for traffic violations detected through the Department’s use of AVIS. Finally, these rules establish the administrative and enforcement process that the Department will use to administer, hear, and resolve a traffic violation detected through the use by the Department of an AVIS, including the administrative hearing process.

2.03 Nothing in these rules apply to the use of AVIS for the purpose of collecting tolls, fees, or civil penalties in accordance with C.R.S. section 43-4-501, et seq. and section 43-4-808.

**3.00 Definitions**

3.01 “Answer” means disputing a Notice of Violation and any related Civil Penalties or fees, by submitting a form (which shall include a request for hearing) as designated by the Department.

3.02 “Automated Vehicle Identification System” or “AVIS” means a machine that is used to automatically detect a violation of a traffic regulation and simultaneously record a photograph of the vehicle and the license plate of the vehicle. The term includes a system used to detect a violation of section 43-4-110.5(11), C.R.S. or a local speed ordinance, a system used to detect violations of traffic restrictions imposed by traffic signals or traffic signs, and a system used to detect violations of bus lane or bicycle lane restrictions.

3.03 “AVIS Corridor” means a street, highway, or interstate that the state, county, or municipality designates as an AVIS Corridor on which an AVIS may be located to detect violations of local traffic regulations or a traffic violation under state law, including, but not limited to, speed violations. The Department will evaluate and establish AVIS Corridors through an engineering investigation that illustrates justification through data collected within the past five years, incidents of crashes, speeding, reckless driving, or community complaints on state, US, and interstate highways designated as an AVIS Corridor, in addition to operations, speed compliance, and geometric analysis. The authority will remain with the Department's Chief Engineer for AVIS Corridors.

3.04 “Civil Penalty Assessment Notice” means the amount of money assessed against a Responsible Party in the Notice of Violation or Civil Penalty Assessment.

3.05 “Civil Penalty Assessment” means a notice sent to a Responsible Party not later than thirty (30) days after the deadline for payment of Notice of Violation identified therein.

3.06 “Department” means the Colorado Department of Transportation and the state of Colorado as defined in section 42-4-110.5(1.1)(b), CRS.

3.07 “Deploy” means utilizing an AVIS within a designated corridor, Work Zone, or school zone to detect traffic violations. Deploy does not include moving, relocating, or securing an AVIS within an established designated corridor, Work Zone, or school zone.

3.08 “Hearing Officer Final Order” means a final order entered by an impartial Hearing Officer regarding liability for Civil Penalties.

3.09 “Hearing Officer” means a person authorized to conduct a hearing under section 24-4-105(3), C.R.S. and 42-4-110.5(2.5)(IV).

3.10 “Install” means bringing an AVIS into service within a designated corridor, Work Zone, or school zone to detect speed or traffic violations. Install does not include moving an AVIS within an established designated corridor, Work Zone, or school zone.

3.11 “Notice of Violation” means a notice issued to the Responsible Party if the Department detects any alleged violation of a county or municipal traffic regulation or a traffic violation under state law through an AVIS.

3.12 “Program” means the program created by the Department in these rules, as required by section 42-4-110.5 C.R.S., for the use AVIS on state highways and the Department’s prioritization for the use of AVIS by other entities on state highways.

3.13 “Reasonable and Prudent” means the designated speed on any segment of street, highway, or interstate whether posted on a static regulatory speed sign or on a variable speed limit regulatory sign.

3.14 “Responsible Party” means the registered owner of vehicle within any state. If the registered owner of vehicle is engaged in the business of leasing or renting motor vehicles, such registered owner is liable for payment of the Civil Penalty, even if the motor vehicle in question was leased or rented at the time of the violation.

3.15 “Vendor” means the third-party contractor providing AVIS infrastructure and services to the Department.

3.16 “Warning Notice” means the document that will be sent for a violation or violations detected by an AVIS during the Warning Period.

3.17 “Warning Period” means the first thirty (30) days after a new AVIS is installed or deployed, or as may be extended by the Department, during which only Warning Notices will be issued.

3.18 “Work Zone” means a highway maintenance, repair, or construction area where maintenance, repair, or construction activity is taking place or will be taking place as designated by signage as required in section 42-4-614, C.R.S.

**4.00 Warning Period and Warning Notices**

**4.01 There shall be a Warning Period after a new AVIS is installed or deployed.**

4.01.1 For the first thirty (30) days after an AVIS is installed or deployed, only Warning Notices may be issued for alleged violations of a county or municipal traffic regulation or traffic violation under state law detected by an AVIS.

4.01.2 The Warning Period may be extended beyond the first thirty (30) days if the Department publicly announces the extension including when the Warning Period will end and when the Department will begin to issue Notice(s) of Violation.

4.01.3 During any Warning Period, only one Warning Notice per motor vehicle per Responsible Party will be issued, regardless of the number of violations in the same AVIS Corridor, Work Zone, or school zone.

4.01.4 Each new AVIS deployed in a Work Zone, school zone, or AVIS Corridor will have at least a thirty-day Warning Period.

4.01.5 Each specific Work Zone, school zone, or AVIS Corridor deployment will have a separate Warning Period.

* 1. **Warning Notices**

4.02.1 A Warning Notice must be sent to the Responsible Party by first-class mail, personal service, or by any mail delivery service offered by an entity other than the US postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, within the following timeframes:

1. Thirty (30) days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered in the state of Colorado; or

2. Sixty (60) days after the alleged violation occurs if the motor vehicle involved in the alleged violation is registered outside of the state of Colorado.

4.02.2 The Warning Notice must contain:

1. The name and address of the Responsible Party involved in the alleged violation;

2. The license plate number and issuing state of the motor vehicle involved in the alleged violation; and

3. The date, time, and location of the alleged violation.

**5.00 Notice of Violation**

5.01 A Notice of Violation shall be issued in the event of an alleged violation after any applicable Warning Notices as provided under Rule 4.02.

5.02 A Notice of Violation shall be sent to the Responsible Party by first-class mail, personal service, or by any mail delivery service offered by an entity other than the U.S. postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, within the following timeframes:

1. Within thirty (30) days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered in Colorado; or

2. Within sixty (60) days after the alleged violation occurs if the motor vehicle involved in the alleged violation is registered outside of Colorado.

5.03 The Notice of Violation must contain:

1. The name and address of the Responsible Party involved in the alleged violation;

2. The license plate number and issuing state of the motor vehicle involved in the alleged violation;

3. The date, time, and location of the alleged violation;

4. A description of the alleged violation.

5. The amount of the Civil Penalty prescribed for the alleged violation;

6. The deadline for payment of the prescribed Civil Penalty and for filing an Answer disputing the alleged violation and requesting a hearing; and

7. Information on how the Responsible Party may either file an Answer disputing the alleged violation and requesting a hearing or pay the prescribed Civil Penalty.

5.04 Failure to file an Answer requesting a hearing within forty-five (45) days of the issuance of the Notice of Violation will waive the Responsible Party’s right to a hearing and the right to contest the violation itself, the type of Civil Penalty assessed, or the prescribed Civil Penalty amount.

5.05 Leasing or Renting: A Responsible Party that is engaged in the business of leasing or renting a motor vehicle(s) is liable for payment of the Civil Penalty, even if the registered owner was not driving the motor vehicle. In such cases, the registered owner of the vehicle may obtain payment from the lessor or renter of the motor vehicle and remit payment to the Department via phone, mail, or online. The registered owner of the vehicle’s inability to collect or delay in collecting payment from the lessor or renter will not be a defense to payment of the Civil Penalty by the Responsible Party within the deadline prescribed in the Notice of Violation.

**6.00 Civil Penalty Assessment Notice**

6.01 If the Department does not receive payment for the amount in the Notice of Violation or a written Answer requesting a hearing to dispute the alleged violation(s) by the deadline stated in the Notice of Violation, the Department or its Vendor shall issue a Civil Penalty Assessment Notice.

6.02 A Civil Penalty Assessment Notice shall be sent by mail to the Responsible Party by first-class mail, personal service, or by any mail delivery service offered by an entity other than the US postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, to the Responsible Party no later than thirty (30) days after the deadline to pay or Answer listed in the Notice of Violation.

6.03 The Civil Penalty Assessment Notice must contain:

1. The name and address of the Responsible Party involved in the alleged violation;

2. The license plate and issuing state of the motor vehicle involved in the alleged violation;

3. The date, time, and location of the alleged violation;

4. A description of the alleged violation.

5. The amount of the Civil Penalty prescribed for the alleged violation;

6. The deadline for payment of the prescribed Civil Penalty; and

7. Information on how to pay the prescribed Civil Penalty.

6.04 If the Responsible Party fails to pay in full the prescribed Civil Penalty by the deadline stated in the Civil Penalty Assessment Notice, a Final Order shall be entered against the Responsible Party.

**7.00 Amount of Civil Penalties**

The following amount of Civil Penalty applies to each Violation Type:

7.01 Violations within the Warning Period: For the first thirty (30) days after AVIS is installed or deployed, only warnings may be issued for violations of a county or municipal traffic regulation or traffic violation under state law detected by AVIS.

7.02 School Zones: For vehicles traveling ten (10) miles per hour or more but less than twenty-five (25) miles per hour over the Reasonable and Prudent speed in an active school zone, all violations will be seventy-five (75) dollars.

7.03 Work Zones: For vehicles traveling ten (10) miles per hour or more but less than twenty-five (25) miles per hour over the Reasonable and Prudent speed, all violations in a Work Zone will be seventy-five (75) dollars.

7.04 Designated AVIS Corridors: For vehicles traveling ten (10) miles per hour or more but less than twenty-five (25) miles per hour over the Reasonable and Prudent speed in a Designated AVIS Corridor, all violations will be forty (40) dollars.

7.05 The Department reserves the right to provide information, upon request, to applicable law enforcement regarding any vehicles traveling twenty-five (25) miles per hour or more over the Reasonable and Prudent speed as captured by an AVIS.

**8.00 Answering a Notice of Violation**

8.01 The Responsible Party may submit a written Answer requesting a hearing within forty-five (45) days from issuance of the Notice of Violation.

8.02 An Answer may be submitted by filing out and submitting a form as designated by the Department.

8.03 The Answer form as designated by the Department will include a request for a hearing.

8.04 After an Answer is submitted, the Department may, at its discretion, review or cause a Vendor to review the Answer and may, in the Department’s sole discretion, dismiss some or all the alleged violations contained in the Notice of Violation being disputed.

8.05 If some or all the alleged violations are dismissed by the Department before a hearing, the dismissal must be communicated to the Responsible Party in writing via e-mail or mail to the Responsible Party in the same manner as the Notice of Violation.

8.06 If the Responsible Party submits a written Answer and the Department does not dismiss all alleged violations, an administrative hearing must be held pursuant Rule 9.00.

8.07 Nothing in this rule shall limit the Responsible Party’s ability to admit liability and pay the alleged violations before the administrative hearing date.

**9.00 Administrative Procedure**

The State Administrative Procedure Act shall apply to the administrative procedure under these rules. In the case of conflict, the requirements within these rules will apply.

9.01 Notice of Hearing

1. After a written Answer is submitted to the Department in the form and manner prescribed by the Department, the Department, or its Vendor, shall schedule or cause a Vendor to schedule an administrative hearing before a Hearing Officer.

2. The Department shall send or cause a Vendor to send a Notice of Hearing by mail to the Responsible Party by first-class mail, personal service, or by any mail delivery service offered by an entity other than the US postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, to the Responsible Party at least thirty (30) days before the scheduled hearing.

9.02 Conduct of Hearing

1. A Hearing Officer will preside over the administrative hearing and shall have all powers under the State Administrative Procedure Act set forth in section 24-4-105, C.R.S., except that for purposes of these Rules, the decision of the Hearing Officer shall be a Final Order and may not be appealed to the Department.

2. The burden of proof shall be by a preponderance of the evidence.

3. Regarding section 24-4-105(8), C.R.S., the Hearing Officer may take notice of the scientific principles underlying technology utilized by the Department or the Vendor on its behalf, to produce automatic vehicle identification imagery, the foundation of which may be presumed, subject to rebuttal by a preponderance of the evidence.

4. The Department shall provide the Responsible Party with all photographs, maps, and other evidence that the Department intends to use to prove the alleged violation(s) at least fourteen (14) days before the administrative hearing. Such evidence will be sent via e-mail or mail in the same manner as the Notice of Violation.

9.03 Continuances

1. The Responsible Party or their legal representative shall have the right to one (1) continuance.

2. A Hearing Officer may, in the Hearing Officer’s sole discretion, continue the administrative hearing to a later date. If the administrative hearing is continued, a new notice of hearing shall be issued in the same manner as the original notice of hearing for the continued hearing date.

9.04 Failure to Appear

1. If a Responsible Party has submitted an Answer and requested a hearing but fails to appear at the hearing as originally set or as continued by the Hearing Officer, upon satisfaction that notice of the hearing was given by the Department or a vendor on its behalf, to the Responsible Party, the Responsible Party will be deemed to have admitted liability and have waived the right to a hearing.

2. If the Responsible Party fails to appear, a Final Order may be entered against the Responsible Party.

9.05 Hearing Officer’s Final Order

1. The Hearing Officer shall review the evidence presented by the Department, or its representative, and the Responsible Party, if any, and make a finding as to whether the Responsible Party is liable for a Civil Penalty and render a decision in the form of a Hearing Officer’s Final Order.

3. In addition to the requirements set forth in Rule 9.06.01, to enter a Final Order in cases where the Responsible Party fails to file an Answer requesting a hearing, the Hearing Officer must find:

a. That the Notice of Violation was provided to the Responsible Party at the Responsible Party’s last known address based on the vehicle records of the Department of Revenue, Division of Motor Vehicles, address provided by the Responsible Party, or another source approved by the Department; and

b. The Responsible Party was provided with notice of the opportunity to appear at a hearing but failed to file an Answer requesting a hearing.

9.06 Final Orders and Payment

1. The Final Order must include:

a. The name and address of the Responsible Party involved in the alleged violation;

b. The license plate number and issuing state of the motor vehicle involved in the alleged violation;

c. The date, time, and location of the alleged violation;

d. A finding of liable or not liable for each alleged violation detected by AVIS;

e. The amount of the Civil Penalty prescribed for the alleged violation;

f. The deadline for payment of the prescribed Civil Penalty; and

g. Information on how to pay any Civil Penalty.

2. A decision by a Hearing Officer shall be final and will be binding upon the parties.

3. A Responsible Party shall pay the amount set forth in a Final Order within thirty (30) days of the effective date.

4. The Department reserves the right to resolve the amount owed in a Final Order(s), including by initiating debt settlement and/or payment plans consistent with Department policy. See Section 10.00 of these rules for “Collections.”

9.07 Appeal of Hearing Officer’s Final Order

1. The Hearing Officer’s Final Order is subject to judicial review and may be appealed as to matters of law and fact to the county court for the county in which the violation occurred pursuant to section § 42-4-110.5(2(a)), C.R.S.

2. The Responsible Party may assert in an appeal that a Notice of Violation served by first-class mail or other mail delivery service was not actually delivered.

3. The appeal shall be de novo.

4. The Hearing Officer’s Final Order may be appealed within thirty-five (35) days of the effective date.

**10.00 Collections**

10.01 The Department may not initiate or pursue a collection action against a Responsible Party for a debt resulting from an unpaid Civil Penalty assessed pursuant to this section unless the Responsible Party is personally served the Notice of Violation or the Final Order.

10.02 After personally serving the Notice of Violation or the Final Order, the state may contract with an outside vendor to initiate or pursue a collection action against a Responsible Party for a debt resulting from an unpaid Civil Penalty.

10.03 The Department shall have every legal remedy available to enforce unpaid Civil Penalties as debts owed to the Department.

10.04 The Department or an outside vendor on its behalf may certify the record on appeal by filing a certified copy of the Final Order entered by the Hearing Officer with the clerk of the county court in the county in which the violation occurred at any time after the Final Order is entered. Nothing in this Rule shall require the Department to file such certified copy of the Final Order.

**11.00 Local Agency AVIS Procedure and Approvals**

11.01 All AVIS Corridors or use of an AVIS on state or US highways must be approved by the appropriate Department Region Traffic Engineer, State Traffic Engineer, and a Colorado State Patrol representative.

1. The Department will develop and publish a local agency AVIS Corridor Procedure and make the procedure available to any local agencies and entities planning on implementing AVIS Corridors on any state or US highway.

2. Any local agency or entity planning on implementing an AVIS Corridor or AVIS on any state or US highway shall refer to and follow the most recently published version of the local agency AVIS Corridor Procedure and apply for approval of any AVIS corridors or use of AVIS on state or US highways.

3. Any local agency or entity planning on implementing an AVIS Corridor or AVIS on any state or US highway requiring any permanent signage or infrastructure, must apply to the appropriate Department region permit office for a special use permit. Local agencies or any entity may not implement an AVIS Corridor or install anything within the Department right of way until both the AVIS Corridor application and special use permit are approved.

4. Before the state designates an AVIS corridor on a state highway located within the boundaries of a county, a city and county, or a municipality, and before the state begins operation of an AVIS corridor on a state highway, the state shall notify the respective county, city and county, or municipality.

11.02 Prioritization Criteria

1. If multiple entities seek authorization to use an AVIS or establish an AVIS Corridor on the same portion of a state highway, then the Department will utilize these prioritization criteria to determine which entity will receive authorization.

2. If multiple local agencies, local law enforcement agencies, the Department, or entities request a new AVIS in the same portion of state highway, the Department will give priority to the local agency, local law enforcement agency, or entity that has the primary responsibility, through jurisdiction or by agreement, for regulation and enforcement of traffic restrictions on the portion of a state highway on which an AVIS is to be used.

3. Local agencies, local law enforcement agencies, or entities that have the primary responsibility, through jurisdiction or by agreement, for regulation and enforcement of traffic restrictions on the portion of a state highway on which an AVIS is to be used will have priority before the Department for establishing AVIS and in school zone enforcement.

4. If the Department implements an AVIS Corridor or AVIS along any state or US highway, the Department will notify the local agency, law enforcement, or entity with primary responsibility for regulation and enforcement of traffic restrictions that the state will be using an AVIS within its jurisdiction. The Department will make available the administrative and enforcement process that the Department will use to administer and resolve a traffic violation detected using an AVIS. The Department will make such notification at least thirty (30) days before the Warning Period begins.

5. The Department reserves the right to request a reapplication for any local agency, law enforcement agency, or entity that ceases operation or does not follow the requirements in 42-4-110.5, C.R.S for more than ninety (90) days.

11.03 The entity that operates AVIS on a state highway is responsible for the cost of the installation, operation, maintenance, and removal of the AVIS and all related signage.

**12.00 Declaratory Orders**

Any person may petition the Executive Director for a declaratory order pursuant to § 24- 4-105(11) C.R.S.