


## GENERAL ORDER

	<b>Effective:</b> May 23, 2022	<b>Number:</b> 22-25-002
	<b>Subject:</b> <b>COMMERCIAL VEHICLE DRIVER IMPAIRMENT DUE TO ILLNESS AND/OR FATIGUE AND RELATED ENFORCEMENT</b>	
	<b>Reference:</b> Minn. Stat. secs. <a href="#">169.025</a> , <a href="#">221.031</a> , <a href="#">221.0314</a> , <a href="#">221.605</a> , <a href="#">299D.03</a> , <a href="#">299D.06</a> , and applicable Federal Motor Carrier Safety Regulations; GO <a href="#">25-006</a> ; <a href="#">MN Federal Civil Case 09-1116</a> ;	
	<b>Special Instructions:</b> Rescinds General Order 10-25-002	<b>Distribution:</b> A,B,C,F

### I. PURPOSE

- A. To promote both a safe environment on Minnesota roadways and commercial vehicle driver compliance with applicable laws through the enforcement of state statutes and federal regulations pertaining to commercial motor vehicles
- B. To establish uniform guidelines for members of the Minnesota State Patrol when enforcing state statutes and federal regulations pertaining to ill and/or fatigued drivers of commercial motor vehicles during inspections at roadside, fixed scale, and other inspection sites.
- C. To ensure these operations are conducted within legal requirements and members are utilizing appropriate enforcement practices (and in accordance with the [Minnesota Federal Civil Case 09-1116 \(Owner-Operator Independent Driver Association, Inc. v. MN State Patrol.\)](#))

### II. OBJECTIVE

To reduce crashes caused by illness and/or fatigued operators of commercial motor vehicles through the enforcement of state statutes and federal regulations and to remove impaired commercial vehicle drivers from the roadways consistent with the North American Uniform Out of Service Criteria.

### III. POLICY

The Minnesota State Patrol will conduct inspections at roadside, fixed scales, and other inspection sites to detect ill and/or fatigued drivers of commercial motor vehicles consistent with applicable state statutes, federal regulations, and appropriate law enforcement practices. These inspections will be conducted as part of a proactive commercial vehicle enforcement program intended to promote safe travel and to deter the unsafe operation of commercial motor vehicles on Minnesota's roadways.

### IV. AUTHORITY

Minn. Stat. sec. [299D.03](#) (State Patrol) authorizes sworn Troopers to enforce the provisions of the law relating to the protection of and use of trunk highways and other roads as conditions may require and to ensure safety. Minn. Stat. sec. [299D.06](#) authorizes Commercial Vehicle Inspectors (CVIs) to enforce certain laws pertaining to commercial motor vehicles and drivers. Both sec. [299D.03](#) and sec. [299D.06](#) authorize State Patrol Troopers and CVIs to enforce the North American Uniform Out-of-Service Criteria and to issue out of service orders. Minn. Stat. secs. [221.031](#), [221.0314](#), and [221.605](#) authorize the investigation and compliance with the provisions of the Federal Motor Carrier Safety Regulations adopted in these statutes by instituting the prosecution in the proper district court for their enforcement and through the North American Out of Service Criteria pertaining to

commercial motor vehicles, drivers and hazardous materials. Minn. Stat. sec. [169.025](#) requires commercial motor carriers, drivers, and their vehicles to comply with the Federal Motor Carrier Safety Regulations set forth in Minn. Stat. sec. [221.031](#) and [221.605](#).

## V. PROCEDURE

- A. During all commercial motor vehicle enforcement activity (Level I, II, III, and IV inspections), personnel who are certified to perform North American Standard (NAS) inspections will observe commercial vehicle operation and driving conduct for signs of driver impairment due to illness and/or fatigue. The inspection shall be consistent with the North American Standard Inspection procedure.
- B. Commercial Motor Vehicle Driver Inspection:
  1. During the course of each driver inspection, personnel will observe the driver for signs of impairment due to illness and/or fatigue, or any other cause.
  2. Reasonable articulable suspicion is required to expand the routine commercial motor vehicle driver portion of an inspection for the purposes of determining the absence or presence of driver impairment.
  3. Any questions used during the expanded inspection for impairment to assist personnel in determining the extent of impairment, should it exist, must be reasonably related to whether the driver can continue to safely operate the commercial motor vehicle at the time.
  4. A driver cannot continue to safely operate his/her commercial motor vehicle if their ability to operate a commercial motor vehicle poses an imminent risk to public safety.
  5. Deceptive or misleading statements designed to encourage voluntary cooperation of the driver are not permitted.
  6. If the driver inquires about the nature or purpose of the additional questions, the driver shall be told that the purpose is to determine whether they are impaired, and if so, whether the driver can continue to safely operate the commercial motor vehicle (i.e. whether their ability to operate a commercial motor vehicle poses an imminent risk to public safety).
  7. If a driver refuses to answer the questions, personnel will honor the request, complete the remainder of the inspection to the extent possible, and make a determination based upon the information available at the time.

## VI. ENFORCEMENT

### Impairment Due to Illness or Fatigue

1. Discretion: Before taking enforcement action for impairment due to illness or fatigue, personnel must have probable cause to believe the following:
  - a. The driver's ability to safely operate the commercial vehicle is impaired, and
  - b. The driver's impairment is caused by illness or fatigue, and
  - c. The driver's ability to safely operate the commercial vehicle is so impaired at the time as to make continued operation of the commercial vehicle an imminent risk to public safety.
2. Proof of impairment in the safe operation of the commercial vehicle is required, not simply indications of illness, tiredness, sleepiness, or unproductive rest periods.
3. Proof of imminent risk to public safety is required, not simply a perceived risk of future impairment.
4. Enforcement
  - a. If the commercial vehicle driver's operation of the commercial vehicle is so impaired due to illness as to pose an imminent risk to the public safety:
    - i. Contact a Commercial Vehicle Section supervisor to seek approval prior to taking any

- enforcement action.
- ii. Place the driver Out of Service consistent with the North American Uniform Out of Service Criteria, and
  - iii. Issue a Uniform Traffic Citation for a violation of [49 CFR 392.3](#) and the corresponding Minnesota statute.

## VII. REPORTING REQUIREMENTS

### A. Members

If enforcement action is taken on an ill or fatigued driver, members shall complete a field report in TraCS in addition to the driver/vehicle examination report. The field report must include a detailed summary of the facts that led to the conclusion that there was reasonable articulable suspicion to expand the scope of the driver inspection and a detailed summary of the facts that led to the conclusion that probable cause existed to take enforcement action. The narrative field report must also include a detailed summary of all of the facts and observations that support the conclusion that the commercial vehicle driver's ability to safely operate the commercial vehicle was so impaired due to illness and/or fatigue as to cause an imminent risk to public safety. Such report shall be of sufficient detail to permit the prosecutor, judge and jury to reach the same conclusion.

### B. Supervisors

1. Approval shall only be given to personnel to take enforcement action on a driver who is deemed to be ill and/or fatigued after consideration to all the facts. Probable cause that further operation of the commercial vehicle by the driver will pose an imminent hazard must be confirmed by examining the answers to the following questions:
  - a. Has impairment been detected?
  - b. Has the source of that impairment been identified?
  - c. Is the impairment detected significant enough to impact the driver's ability to safely operate the commercial motor vehicle?
  - d. Does the driver present an imminent risk to operate their commercial motor vehicle?
  - e. What has the driver stated about their physical condition?
2. Supervisors shall review the driver/vehicle examination report, citation, and field report to ensure all necessary elements are properly documented by personnel.

**Approved:**

**SIGNED 5/23/2022**

**Colonel Matthew Langer, Chief  
Minnesota State Patrol**