

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

DELIVERY NETWORK COMPANY (DNC) AND TRANSPORTATION NETWORK COMPANY (TNC) ACTS LABOR RULES (DATA LABOR RULES)

7 CCR 1103-19

Proposed September 30, 2024; if adopted, to be effective January 1, 2025.

Rule 1. Statement of Purpose and Authority

- 1.1** Authority and relation to other orders. The general purpose of these Delivery Network Company (DNC) And Transportation Network Company (TNC) Acts Labor Rules (DATA Labor Rules) is to exercise the authority of the Director, through the Division, to administer and enforce the provisions of the Protections for Delivery Network Company Drivers Act (DNC Act), C.R.S. § 8-4-126, and the Transportation Network Company Transparency Act (TNC Act), C.R.S. § 8-4-127. These Rules are intended to be consistent with the rulemaking requirements of the State Administrative Procedure Act, C.R.S. § 24-4-103.
- 1.2** The Director of the Division has authority to enforce, interpret, apply, and administer the provisions of C.R.S. Title 8, Article 4 and these Rules.
- 1.3** Incorporation by Reference. The DNC Act and TNC Act are hereby incorporated by reference into these Rules. Such incorporation excludes later amendments to or editions of the statutes. Unless otherwise noted, in these Rules: all statutes cited apply the most recent 2024 versions of the Colorado Revised Statutes; all rules cited apply the most recent versions adopted as of the adoption of these Rules. These statutes are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver, CO 80202. Copies may be obtained from the Division at a reasonable charge. Electronic access is available from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of the statutes incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing the statutes. All Division rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern so long as they are consistent with Colorado statutory and constitutional provisions. Where these Rules reference another rule, the reference shall be deemed to include all subparts of the referenced rule.
- 1.4** Separability. These Rules are intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the Rule remains valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

Rule 2. Definitions and Clarifications

- 2.1** “Authorized representative” means a person designated by a party to a complaint to represent the party during the Division’s administrative procedure. To designate an authorized representative the party must comply with the requirements for authorizing a representative in the Wage Protection Rules, 7 CCR 1103-7, Rule 4.3.

- 2.2** “Complaint” or “claim” interchangeably mean a complaint or claim alleging a violation of the DNC Act or TNC Act. “Complainant” means a person who files a complaint or claim. “Respondent” means a party against whom a complaint or claim is filed.
- 2.3** “Deactivation” and “suspension” mean conduct that a DNC or TNC engages in to restrict or block a driver’s access to the digital platform, including by changing a driver’s status from eligible to ineligible, for a period of less than 72 hours for suspension, and for a period of 72 hours or more for deactivation.
- (A)** If, at the time that it restricts a driver’s access to its digital platform, a DNC or TNC knows or reasonably expects that the restriction could last 72 hours or longer, the DNC or TNC is considered to have “deactivated” the driver and must comply with the deactivation requirements of the DNC Act or TNC Act, respectively.
- (B)** “Deactivation” or “suspension” does not include a DNC’s or TNC’s restriction of a prospective driver’s access to its digital platform prior to that prospective driver having performed any delivery tasks using the DNC’s digital platform or any transportation tasks using the TNC’s digital platform.
- 2.4** “Delivery Network Company” or “DNC” has the meaning provided in C.R.S. § 8-4-126(1)(c), except DNC does not include a motor carrier of motor vehicles regulated by the Public Utilities Commission pursuant to Part 4 of Article 10.1 of Title 40, or a motor carrier of household goods regulated by the Public Utilities Commission pursuant to Part 5 of Article 10.1 of Title 40.
- 2.5** “Disclosure” as used in these rules means any document, information, or data that a DNC, TNC, or Driver Support Organization (“DSO”) must provide or make available to a driver, a consumer, a TNC, a Driver Support Organization, the Division, or the public.
- 2.6** “Division” means the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.
- 2.7** “Driver” has the meaning provided in C.R.S. § 8-4-126(1)(f) for purposes of the DNC Act, and the meaning provided in C.R.S. § 8-4-127(1)(h) for purposes of the TNC Act. For purposes of this definition, a “personal vehicle” includes any vehicle that a DNC or TNC allows for performing services through its digital platform.
- 2.8** “Task” means and includes:
- (A)** As to rules relating to the DNC Act, “task” refers to a “delivery task” and is defined in C.R.S. § 8-4-126(1)(d) as the time spent, distance traveled, and route followed by a driver to provide delivery services to a consumer through a delivery network company, including traveling to a merchant’s business; picking up food, beverages, or other goods for delivery; and taking and depositing the delivery at a different location, as requested. A delivery task may encompass multiple transactions;
- (B)** As to rules relating to the TNC Act, “task” refers to a “transportation task” and is defined in C.R.S. § 8-4-127(1)(s) as a driver’s provision of transportation services to a consumer or to one or more riders for whom a consumer orders transportation services through a TNC’s digital platform.

- 2.9** “Transportation Network Company” or “TNC” has the meaning provided in C.R.S. § 40-10.1-602(3); except that the term does not include a TNC that meets the requirements of C.R.S. § 8-4-127(1)(q).
- 2.10** Any other definitions provided in the DNC and TNC Acts are hereby incorporated by reference, except where terms are defined differently in these Rules.

Rule 3. Filing, Service, and Deadlines

- 3.1** Documents, complaints, and disclosures to the Division shall be filed or submitted electronically, on a Division-approved form if one is available, pursuant to these Rules and any orders, instructions, and deadlines provided or published by the Division; payments required shall be by means, and by deadlines, required by applicable statutes, rules, or instructions from the Division. If the Division does not publish an applicable form or provide one to a party when the party intends to file, or if a party cannot readily use such means, the party may file by any means that provides the filing to the Division, including but not limited to email, other electronic means, or mailing or hand-delivering copies. A document is considered “filed” when received by the Division; a document received after 11:59 p.m. Mountain Time is considered “filed” the next business day.
- 3.2** Any submission is considered “signed” or to have a “signature” if it has an ink, scanned, or electronically drawn or generated signature, or a typed name entered by the party or their authorized representative in the signature area. By signing in any such manner, the individual is deemed to have agreed and assented that the document is signed by them.
- 3.3** Calculations of any prescribed or allowed time periods shall be in accordance with C.R.S. § 2-4-108.
- 3.4** Upon receiving a written request for an extension that states the reason an extension is required, and that otherwise complies with these rules, the Division may, at its discretion, extend the deadline for “good cause” shown. In considering whether good cause exists, the Division will determine whether the reason is substantial and reasonable, based on all the available information and the circumstances.

Rule 4. Complaints, Investigations, and Determinations

- 4.1** Complaints.
- 4.1.1** A person who is aggrieved by a violation of the DNC or TNC Acts, or their authorized representative, may file a complaint with the Division.
- (A)** The complaint shall include the complainant’s signature and contact information, and a short, plain statement of its grounds.
 - (B)** Failure to respond timely to Division requests for additional supporting information or documentation may result in dismissal of the complaint.
 - (C)** The Director may initiate, file, and investigate alleged violations in response to complaints filed or at its discretion. Decisions under this Rule are within the discretion of the Director’s authority to enforce and administer the DNC and TNC Acts, these Rules, and other applicable statutes and rules.

- 4.1.2** The Division will evaluate complaints to determine if the Division has jurisdiction over the alleged conduct, if sufficient allegations and evidence have been shown from which a violation of applicable law may be reasonably inferred, and if, in the Director's good faith discretion and judgment, the complaint warrants investigation.
- 4.1.3** A complainant may withdraw a complaint at any time prior to issuance of a determination.
- 4.2** Notices of Complaint to respondents.
- 4.2.1** If the Division exercises its discretion to investigate, it shall give notice of the allegations, and request that an answer be filed by the respondent.
- 4.2.2** The respondent shall file an answer responding to each allegation, and attach any documentation or evidence the respondent wishes the Division to consider, within 21 days of the date of the Division's notice. The Division may exercise discretion to shorten the response deadline.
- 4.2.3** Upon written request, at the Division's discretion, other parties or entities may be joined as complainants.
- 4.3** Investigation and determination of complaints.
- 4.3.1** Upon receipt of a complaint, the answer, and any supplemental information or documentation, the Division shall determine what if any additional investigation is required.
- 4.3.2** During the investigation, if information is provided to the Division by a source requesting or otherwise warranting confidentiality, and that information is used as a basis for procuring other evidence but not offered as evidence itself, or as evidence of liability, but not to establish individual relief for the source of the information, or in other circumstances in which confidentiality is necessary and appropriate, then the source shall remain confidential.
- 4.3.3** The Director may exercise discretion to adjourn hearings; to permit additional time for submissions; to extend ordered deadlines for good cause or by consent; and to issue orders disposing of a complaint without a hearing.
- 4.3.4** Where a complaint or investigation for violation of these Rules or the statutes they enforce has been filed or commenced, all parties shall preserve all relevant documents until final disposition and until the expiration of the statutory period within which a person aggrieved may bring a civil action.
- 4.3.5** The Division may exercise its discretion to have an investigation sequenced and/or divided into two or more stages on discrete questions of liability or relief (e.g., bifurcation), yielding two or more determinations and/or phases of the investigation.
- 4.3.6** The Division may exercise its discretion to terminate an investigation at any time.
- 4.3.7** Upon completing an investigation that has not been terminated, the Division shall issue all parties a determination as to whether a violation of applicable law occurred. Upon completion of any further internal review by the Division, or absent a request for such review, the determination shall constitute final agency action, and final decision of the Director, subject to judicial review pursuant to C.R.S. § 24-4-106.

4.4 Remedies for violations.

4.4.1 Remedies for violations of applicable law may include any of the following, depending on which, if any, the Division’s findings support:

- (A)** Monetary damages in the amount of \$1,000, as determined by the Director, on a per-consumer or per-driver basis, which amount a TNC respondent shall pay to the affected consumer or driver;
- (B)** Fines in the amount of \$100 per violation, as determined by the Director on a per-consumer or per-driver basis, which a TNC respondent or DNC respondent shall pay to the Division;
- (C)** Any other relief authorized by applicable statutes the Division enforces or administers.

4.4.2 Monetary remedies are calculated on a per-consumer or per-driver basis regardless of the degree of similarity of the challenged disclosures or other conduct at issue.

Rule 5. Requirements as to DNCs

5.1 Wage transparency disclosures to drivers. As to disclosures under C.R.S. § 8-4-126(3):

5.1.1 When a DNC makes a disclosure pursuant to C.R.S. § 8-4-126(3)(b)(I)-(II) for a delivery task involving multiple transactions, the DNC shall provide the required amounts disaggregated by transaction, if available.

5.1.2 Pursuant to C.R.S. § 8-4-126(3)(e)(I), a DNC must disclose the IRS mileage rate applicable to the relevant reporting period. As part of these disclosures, a DNC may include a notice regarding the applicability of the IRS mileage rate to different types of personal vehicles that it allows drivers to use to perform services through its digital platform.

5.2 Task acceptance time.

5.2.1 The requirement that a DNC ensure all drivers have at least sixty seconds to decide whether or not to accept an offered delivery task applies to all task offers, including an offer to compensate a driver for a block of time for multiple deliveries.

5.2.2 A DNC is considered to “encourage the driver to respond to a delivery task offer in a period of less than sixty seconds after displaying the offer on the driver’s smartphone or similar screen” within the meaning of C.R.S. § 8-4-126(7)(b) if the DNC rewards, or has a policy of rewarding, drivers for responding to a delivery task offer in less than sixty seconds, whether the driver’s response time is the entire basis of the reward or only one factor. “Rewards” or “rewarding” for purposes of this rule include:

- (A)** Paying or offering to pay a higher amount for one or more delivery tasks;
- (B)** Giving a driver selective or preferential access to delivery task offers; or
- (C)** Any other financial incentive provided or offered by a DNC to a driver.

- 5.3** Disclosures to consumers. For purposes of the driver safety consumer prompting requirements under C.R.S. § 8-4-126(6):
- (A) A DNC is considered to connect a driver to a consumer when a driver accepts a delivery task.
 - (B) If a delivery task includes transactions involving more than one consumer, a DNC must prompt each individual consumer at the time that it connects them to a driver.

Rule 6. Requirements as to TNCs

6.1 TNC disclosures to drivers.

6.1.1 Deactivation and suspension policy disclosures. As to the deactivation and suspension policy required under C.R.S. § 8-4-127(3):

- (A) Any “range of days” for deactivation or suspension must be estimated in good faith by the TNC as a likely duration for the deactivation or suspension.
- (B) The policy must be made available to drivers, posted by the TNC, and sent to the Division, on or before May 1, 2025, in accordance with C.R.S. § 8-4-127(3).
- (C) On and after June 1, 2025, a TNC shall comply with all requirements of C.R.S. § 8-4-127(3), and shall not deactivate or suspend a driver unless the deactivation or suspension is consistent with the TNC’s deactivation and suspension policy, or amended deactivation and suspension policy, as written and distributed in accordance with C.R.S. § 8-4-127(3).

6.1.2 Suspension and deactivation disclosures. As to the written disclosure provided to drivers within 24 hours of a deactivation or suspension under C.R.S. § 8-4-127(4):

- (A) A description of steps to take, if any, to remedy a violation may state that the driver must comply with instructions from the Public Utilities Commission or other regulatory agency if the suspension or deactivation was at the direction of it or another regulatory agency.
- (B) Contact information for the certified DSO need not be provided at any time during which there is not a certified DSO.

6.1.3 Task and pay disclosures. As to disclosures to drivers under C.R.S. § 8-4-127(11), effective February 1, 2025:

- (A) Pursuant to C.R.S. § 8-4-127(11)(b), if a driver completes multiple transportation tasks before resuming available platform time, a TNC shall provide the required disclosure for each completed task when the driver resumes available platform time. The required disclosure for each task must be displayed separately, on a single screen, for each completed task.
- (B) Disclosures made pursuant to C.R.S. § 8-4-127(11)(f) must be made by the last day of the month following the month for which the disclosure is required, or if provided on a more frequent basis than monthly, by the end of the last day of the period following the relevant reporting period.

- 6.1.4** Disclosures to drivers regarding the Driver Support Organization (DSO). As to disclosures required under C.R.S. § 8-4-127(6)(b):
- (A)** Contact information for the certified DSO need not be provided at any time during which there is not a certified DSO.
 - (B)** On and after October 31, 2025, pursuant to C.R.S. § 8-4-127(6)(b)(II)(A), a TNC must disclose the information required under C.R.S. § 8-4-127(6)(b)(I) to each new driver only once, before that driver engages in any transportation task for the TNC.

6.2 TNC disclosures to the Division.

- 6.2.1** As to TNC disclosures to the Division of the annual number of transportation tasks under C.R.S. § 8-4-127(6)(a)(VIII), following the initial disclosure of annual transportation tasks completed in 2023 by November 5, 2024, each disclosure made by January 15 shall be of the annual number of tasks for the prior calendar year (e.g., disclosing by January 15, 2025 the number of tasks completed in 2024).
- 6.2.2** As to TNC disclosures to the Division of deactivation and reconsideration information under C.R.S. § 8-4-127(9):
- (A)** The reporting period is the prior January 1 through June 30 for the August disclosure, beginning August 1, 2026, and the prior July 1 through December 31 for the February disclosure.
 - (B)** “Demographic information” means information that a TNC collects or possesses regarding a driver’s personal characteristics and includes a driver’s: driver’s license number or other unique numerical identifier associated with the driver; race or ethnicity; age; gender and gender identity; and the default language selected by the driver in the TNC’s digital platform. This rule does not create a requirement that a TNC collect any demographic information; rather, a TNC must disclose all demographic information that it does collect or possess in any disclosure made pursuant to the requirements of C.R.S. § 8-4-127(9)(c).

6.3 Annual DSO budget and quarterly remittance by TNCs.

- 6.3.1** DSOs must submit a proposed annual budget when applying for certification, and once certified, before each subsequent year of the certified DSO’s three-year term. Each proposed annual budget shall cover the upcoming period of October 1 through September 30 of the following year.
- 6.3.2** The number of tasks used for the calculation of the annual budget shall be based on the total transportation tasks in the prior calendar year, submitted by TNCs by each January 15th pursuant to C.R.S. § 8-4-127(6)(a)(VIII). The annual budget may increase based on the number of tasks in the prior year and the extent of services provided to drivers.
- 6.3.3** The DSO’s annual budget shall not exceed seven cents per transportation task based on the prior year’s total transportation tasks, with future inflation adjustments published in the Publication And Yearly Calculation of Adjusted Labor Compensation (PAY CALC) Order, 7 CCR 1103-14.

- 6.3.4** Following each three-year certification period, the Division may increase the maximum per-transportation task rate amount that a TNC may be required to pay pursuant to C.R.S. § 8-4-127(6)(a)(II)(C) by an amount not exceeding the rate of inflation during the prior three-year certification period if the Division determines that the increase is necessary to cover the DSO's costs.
- 6.3.5** A TNC's quarterly share of the DSO's approved annual budget, which must be paid by the fifteenth day after the end of each calendar quarter, shall be calculated as one-quarter of the annual DSO budget multiplied by the TNC's fraction of the total number of TNC tasks in the state in the prior year.

Rule 7. Requirements as to both DNCs and TNCs

- 7.1** Translations. The languages into which translations from English are required shall be Spanish, Arabic, Amharic, and Swahili for:
 - (A)** Disclosures of DNC driver contracts under C.R.S. § 8-4-126(4) and DNC account deactivation policies under C.R.S. § 8-4-126(5).
 - (B)** Disclosures of TNC deactivation and suspension policies under C.R.S. § 8-4-127(3).