



Statement of Basis, Purpose, Specific Statutory Authority, and Findings

Delivery Network Company (DNC) And Transportation Network Company (TNC) Acts Labor Rules (DATA Labor Rules), 7 CCR 1103-19 (2024), as adopted November 13, 2024.

I. Basis:

The Director (“Director”) of the Division of Labor Standards and Statistics (“Division”) has the authority to adopt rules and regulations under the authority listed in Part II, which is incorporated into Part I as well. These Rules establish the Delivery Network Company (“DNC”) And Transportation Network Company (“TNC”) Acts Labor Rules (“DATA Labor Rules”), 7 CCR 1103-19, which implement the Colorado Wage Act, Colorado Revised Statutes (“C.R.S.”) Title 8, Article 4, as amended by [Colorado House Bill 24-1129](#) (DNC Act) and [Colorado Senate Bill 24-075](#) (TNC Act).

II. Specific Statutory Authority:

The Director is authorized to adopt and amend rules and regulations to enforce, execute, apply, and interpret Articles 1 and 4 of Title 8, C.R.S. (2024), and all rules, regulations, investigations, and other proceedings of any kind thereunder, by the Colorado Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. §§ 8-1-118, 8-4-126, and 8-4-127. These Rules are promulgated pursuant to express authority including, but not limited to, C.R.S. §§ 8-1-118, 8-4-126(10), and 8-4-127(14).

III. Findings, Justifications, and Reasons for Adoption:

Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds as follows: **(A)** demonstrated need exists for these Rules, as detailed in the findings in Part IV, which are incorporated into this finding as well; **(B)** proper statutory authority exists for the Rules, as detailed in the list of statutory authority in Part II, which is incorporated into this finding as well; **(C)** to the extent practicable, the Rules are clearly stated so that their meaning will be understood by any party required to comply; **(D)** the Rules do not conflict with other provisions of law; and **(E)** any duplicating or overlapping has been minimized and is explained by the Division.

IV. Specific Findings for Adoption:

Pursuant to C.R.S. § 24-4-103(6) the Director finds as follows.

A. Broad Purpose and Scope of Rules

The DNC and TNC Acts primarily impose driver and consumer transparency and other requirements on two types of entities: Delivery Network Companies, which are companies with online applications connecting drivers with consumers seeking delivery services, and Transportation Network Companies, which are companies with online applications connecting drivers with consumers seeking rides.

Each of the Acts sets forth unique definitions and distinct effective dates and deadlines for their various requirements, which cannot be delayed, extended, or stayed by rule. Similarly, requirements for the form or content of disclosures set by statute (e.g., font size requirements under C.R.S. §§ 8-4-126(2)(d)(II) and 8-4-127(11)(e)(II)) cannot be modified by rule, nor can the Division provide a safe harbor for compliance. Nor can the Division require, for example, additional processes like regular self-audits of information required under the statutes to be “estimated,” as in C.R.S. §§ 8-4-126(3)(a)(I),(V)–(VI) and 8-4-127(11)(a)(III)–(IV), or specify timelines for record retention not required by statute, as in C.R.S. § 8-4-127(11)(d). Accordingly, the Division’s

rules are limited to mandatory topics (e.g., the languages required for certain disclosures to be specified by the Division by rule), clarifications of key provisions or deadlines where warranted, a complaint process, and clarifications of which definitions — for DNCs, TNCs, or both — are applicable to the complaint process and other rules.

B. Rule 2: Definitions and Clarifications

1. Rule 2.3(A): Deactivation — meaning

Under the DNC and TNC Acts, a driver is “deactivated” when the company they drive for engages in conduct to restrict the driver’s access to the digital platform for more than 72 hours (DNC Act), or 72 hours or more (TNC Act).¹ However, neither law specifies whether deactivation occurs when a driver has actually been restricted from the platform for the relevant period of time, or when a DNC or TNC engages in conduct that will (or could) restrict the driver’s access for the relevant period of time. Rule 2.3(A) clarifies that a driver is “deactivated” when a DNC or TNC engages in conduct that it knows or reasonably expects could restrict that driver’s access to its digital platform for more than 72 hours, or 72 hours or more, respectively.²

The Division received a comment stating that, for certain deactivations or suspensions, companies may have difficulty knowing whether their conduct will limit a driver’s access for 72 hours or more (TNC deactivations) or more than 72 hours (DNC deactivations), because the timing for restoration of access depends on conditions beyond the TNC’s or DNC’s control, such as when restored access depends on a driver’s actions (e.g., remedying a failure to provide current and unexpired documents) or external circumstances (e.g., weather conditions that result in a temporary halt of TNC services).³ The Division is limited by the statutory requirements applicable to deactivation and suspension notices; however, the Rules address that a TNC or DNC may act based on the duration it “knows or reasonably expects that the restriction could last[.]”

The comment also requested that the Division “consider exempting TNCs from providing a reason for a suspension or deactivation whenever a TNC is required by law to block a driver’s platform access” and to provide guidance regarding, or clarify, that certain deactivations do not trigger the TNC Act’s deactivation notice requirements.⁴ The comment states that internal reconsideration processes, and the requirement to provide a reason for a deactivation or suspension, may not be apt where the TNC does not have discretion to reactivate a driver. However, the statutory language does not allow for such an exemption. The law contemplates that there may be situations in which no remedial action is possible, but the notice is nonetheless required, and TNCs must detail “the steps that a driver may take, *if any*, to remedy the alleged violation[.]”⁵ Regardless of the reasons why a TNC deactivates or suspends a driver, the disclosure requirements of C.R.S. § 8-4-127(4) apply: TNCs must provide deactivated or suspended drivers with the reasons for their

¹ The Division revised the proposed Rule to reflect a distinction between the DNC and TNC Acts’ definitions of “deactivation”: the DNC Act defines deactivation as a restriction for “more than 72 hours” while the TNC Act defines deactivation as a restriction for “72 hours or more[.]”

² See *supra* note 1.

³ [Written comment by Rasier LLC, submitted 9/13/24](#), at 3. (“Rasier is a licensed Transportation Network Company (“TNC”) and a subsidiary of Uber Technologies, Inc. (“Uber”) that contracts with independent drivers who receive ride requests through the Uber platform”).

⁴ *Id.*

⁵ C.R.S. § 8-4-127(4) (emphasis added).

deactivation or suspension,⁶ and the steps, if any, that they can take to remedy the alleged violation of the TNC's deactivation and suspension policy that triggered the deactivation or suspension.⁷

After the Rules were proposed, the Division received several more comments requesting clarification that deactivation and suspension requirements of the Acts do not apply to certain types of deactivations and suspensions, such as those where a driver can take “unilateral” action to resolve the alleged violation that triggered the deactivation or suspension.⁸ However, under both statutes, all deactivations and suspensions are subject to the deactivation-related disclosure and reconsideration requirements of each Act, other than the statutory exemptions permitted by C.R.S. §§ 8-4-126(5)(f) and -127(3)(a)(III).⁹ Even if the DNC or TNC must rely on the driver to correct certain issues or conditions in order to resolve their deactivation, the DNC or TNC has control over its decision to reactivate the driver. In some cases, a DNC or TNC might erroneously deactivate a driver due to technical error or factual misunderstanding, making reconsideration and other notice provisions appropriate in all of these situations.

2. Rule 2.3(B): Deactivations and suspensions — inapplicable to prospective drivers

Before proposing the rules, the Division received a comment requesting that it exclude from the deactivation reconsideration requirements a denial of access to a digital platform to an individual who has not yet performed any services — for example, not allowing access to an applicant who has a criminal conviction that precludes a TNC from allowing them to drive due to PUC regulations.¹⁰ The DNC and TNC Acts require deactivation reconsideration opportunity and notice only for “drivers” — those who are “providing[,]”¹¹ or do “provide[,]”¹² services using a company's digital platform. Therefore, DNCs and TNCs need not provide that reconsideration opportunity to unsuccessful applicants.¹³ Accordingly, Rule 2.3(B) clarifies that “deactivation” does not apply to

⁶ See *infra* note 9.

⁷ See Rule 6.1.2 (“A description of steps to take, if any, to remedy an alleged violation include, if available to the TNC, any remedial steps required by, or related to, regulations or orders promulgated by, the Public Utilities Commission or other regulatory agency.”).

⁸ [Written comment by Lyft, Inc., submitted 11/4/24](#), at 1–2 (“ . . . C.R.S. § 8-4-127 is ambiguous as to the definition of ‘deactivation[.]’ . . . Lyft submits that the Division should revise the definition of ‘Deactivation’ to limit it to only those deactivations within the sole discretion of the TNC, such as those related to trust and safety issues, ratings, etc.”); [written comment by Walmart Inc., submitted 10/31/24](#), at 4 (“We request that the rules provide an exemption from having to comply with the deactivation and reconsideration processes for reasons unrelated to driver behavior.”); [written comment by Portier, LLC \(Uber subsidiary DNC\), submitted 11/4/24](#), at 3 (“Portier requests clarification that, if a driver is unable to access the platform because the driver has not completed a basic requirement for platform access and the issue is unilaterally resolvable by the driver, the DNC is not considered to be engaging in conduct to restrict the driver's access.”); [written comment by Maplebear Inc. d/b/a Instacart, submitted 11/1/24](#), at 2 (“Although uncommon, there are instances where access to a platform may be limited due to a technology outage, routine maintenance, or other acts beyond the control of the DNC (e.g., limiting access to the platform during weather-related or similar emergencies). We urge that CDLE expressly make clear that these instances do not constitute suspension or deactivation within the meaning of the statute . . .”).

⁹ C.R.S. § 8-4-126(5)(f) provides that the DNC Act's account deactivation transparency and challenge procedure requirements “shall not be interpreted to require a DNC to provide a driver with any information that a DNC reasonably believes could compromise the safety or privacy of a consumer.” C.R.S. § 8-4-127(3)(a)(III) provides that a TNC's deactivation and suspension policy need not “require that the TNC provide the driver with a reason for the suspension or deactivation if the suspension or deactivation is the result of an allegation of assault or other egregious misconduct, including an allegation of sexual misconduct.”

¹⁰ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 2–3.

¹¹ C.R.S. § 8-4-126(1)(f).

¹² C.R.S. § 40-10.1-602(4).

¹³ However, a driver deactivated by a TNC as the result of an intermittent background check required by PUC regulations would be entitled to both the deactivation notice required under C.R.S. § 8-4-127(4)(b) and the TNC's internal deactivation review process required under C.R.S. § 8-4-127(5).

situations where a DNC or TNC blocks or restricts access to its digital platform from an individual who has not yet performed any services using that platform.

3. Rule 2.8(A): Delivery task clarifications

The Division received several comments requesting clarification as to how DNCs must calculate the “estimated or actual time” that a driver will spend on a delivery task pursuant to C.R.S. § 8-4-126(3)(a)(V).¹⁴ Rule 2.8(A) has been amended to clarify that “[t]ask time, pursuant to C.R.S. § 8-4-126(1)(d), (3)(a)(V), and 3(c)(II), begins when the driver accepts a delivery task and lasts until the driver drops off the goods.” Therefore if a DNC is aware of the actual time a driver will spend from acceptance to delivery, or if it can reasonably estimate that time, it is required to include all such time in the C.R.S. § 8-4-126(3)(a)(V) disclosure.

C. Rule 3: Filing, Service, and Deadlines

Rule 3.1 provides that when the Division provides a form, instructions, or guidance, that documents, complaints, and disclosures required by or related to these statutes and Rules must be submitted accordingly (and electronically). The rule was amended to apply to all documents, not only those that must be submitted to the Division. For example, DNCs and TNCs must provide copies of their deactivation policies to the Division. This rule change allows for the Division to provide instructions, outside of the rulemaking process, on how to submit these documents, allowing for more flexibility.¹⁵

Rules 3.1 and 3.3 are also amended to clarify that statutory or other regulatory requirements control over the default formats (Rule 3.1) and calculation periods (Rule 3.3) specified in the Rules. For example, C.R.S. § 2-4-108, as incorporated into the Rules by reference in Rule 3.3, provides that “[i]f the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.” But because C.R.S. § 8-4-127(11)(f) requires TNCs to provide monthly or more frequent disclosure summaries *within* the following month or more frequent period, those disclosure deadlines cannot be extended even if the last day of the month or more frequent period is a Saturday, Sunday, or legal holiday.

D. Rule 4: Complaints, Investigations, and Determinations

Rule 4 (along with associated definitions in Rule 2 and requirements in Rule 3) sets forth the process for drivers and consumers to submit complaints alleging violations of the DNC and TNC Acts, as required by C.R.S. §§ 8-4-126(8)(c) and -127(13)(c). These Rules generally track other complaint processes that the Division administers, with some key provisions specific to DNC and TNC Act complaints.

¹⁴ [Written comment by Workers Algorithm Observatory submitted 11/4/24](#), at 1 (“Clarity is needed on how estimations will be calculated. Many drivers report that time estimates are inaccurate because they end up waiting for long periods at the order pick-up location. Time estimations should include estimations of wait-time at the order pick-up location, not just estimated driving time between order pick-up location(s) and drop-off location(s)”; [written comment by Towards Justice, submitted 10/31/24](#), at 1 (“We suggest clarifying that, as defined in the TNC Act, the time a driver spends on available platform time, dispatch platform time, and consumer platform time, together, adds up to all the time that a driver spends logged into a TNC’s digital platform. That is, there is no other type of time when a driver could be active on a TNC’s digital platform.”); see also [written comment by Colorado Fiscal Institute \(CFI\), submitted 11/1/24](#), at 2.

¹⁵ See written comment by Walmart Inc., submitted 10/31/24, at 4 (“If the [deactivation] policy must be publicly displayed, we request clarification on exactly how to submit the policy (for example, there appears to be no ‘submit’ button or website address visible on the current CLDE website) and a sense of when the Director will post the policy.”).

Between proposal and adoption, the Division changed the name of Rule 4.2 from “Notices of Complaint” to “Notices of Investigation” to distinguish notices used in these Rules from the Notice of Complaint that initiates the Division’s wage complaint administrative process.¹⁶

The Division also received a comment requesting revisions to proposed Rules 4.2.2 and 4.3.6 to clarify that the Division will (1) upon written request, provide complainants with a copy of a respondent’s answer and any related documentation or evidence, and (2) notify parties to an investigation if it exercises its discretion to terminate that investigation.¹⁷ It is the Division’s typical practice to provide these copies and dismissal notices in the course of its investigations; the Division intends to be generally consistent here, without need for codification.

Rule 4.4.2 clarifies how the Division intends to calculate monetary remedies on a “per-consumer” or “per-driver” basis. The Division anticipates that many alleged violations of the DNC or TNC Acts would affect more than one driver and/or consumer — e.g., a noncompliant disclosure sent to all drivers using the company’s digital platform would affect each driver; a disclosure about a specific task made to both a driver and a consumer would affect both the driver and the consumer. In these cases, the Division could order monetary remedies for each individual.

E. Rule 5: Requirements as to DNCs

1. Rule 5.1.1: Wage transparency disclosures involving multiple transactions

The DNC Act contemplates that a “delivery task” completed by a driver could consist of “multiple transactions,” which might be paid for separately by different consumers.¹⁸ Rule 5.1.1 clarifies that, for maximum transparency, disclosure requirements for delivery tasks should be disaggregated, when possible, to show payment and tip amounts for each transaction included in the completion of a delivery task. The Division received several comments requesting clarification of this proposed Rule.¹⁹ The final Rule clarifies that disaggregated transaction-specific amounts only need to be disclosed when the amount in question is determined on a transaction basis.

2. Rule 5.1.2: IRS mileage rate provision (deleted); form of pick-up and delivery location disclosure at time of offer

The Division received two comments requesting that it revise the Rules as proposed to remove proposed Rule 5.1.2, stating that the Rule may confuse or mislead drivers regarding the applicability of IRS mileage rates to

¹⁶ See [Colorado Wage Protection Rules](#), 7 CCR 1103-7, Rule 4.4.

¹⁷ Written comment by Towards Justice, submitted 10/31/24, at 1.

¹⁸ C.R.S. § 8-4-126(1)(d).

¹⁹ [Written comment by DoorDash, submitted 11/4/24](#), at 1 (“CDLE should clarify proposed disaggregation requirements[.] ... While disaggregation of consumer tips on the receipt is possible when a delivery task involves multiple transactions, a similar per-transaction treatment is not possible with respect to compensation from our platform.”); [written comment by TechNet, submitted 11/4/24](#), at 1–2 (“We request that the Division clarifies th[e] language [of Rule 5.1.1] . . . or alternately issues guidance clarifying that this disaggregation is not required where compensation is offered by delivery task.”); written comment by Portier, LLC (Uber subsidiary DNC), submitted 11/4/24, at 2 (“Portier requests clarification that a disclosure pursuant to C.R.S. §§ 8-4-126(3)(b)(I)–(II) for a delivery task involving multiple transactions must disaggregate the fare if the fare for each transaction is calculated individually. If the fare is calculated on a delivery task basis, rather than on a transaction basis, the DNC should not be required to disaggregate the fare.”); [written comment by Rasier, LLC \(Uber subsidiary TNC\), submitted 11/4/24](#), at 3–4.

their work.²⁰ Upon consideration, and absent any countervailing stakeholder input in support of keeping the proposed Rule, the Division has removed the substance of the proposed Rule entirely.

Rule 5.1.2 as adopted addresses a different disclosure requirement: C.R.S. § 8-4-126(3)(a)(IV), which requires DNCs to disclose “the cardinal and intercardinal direction from where the driver is required to pick up the food, beverages, or other goods to the locations where the food, beverages, or other goods must be delivered” when offering delivery tasks to drivers.²¹ The Division received comments requesting clarification as to whether an image of a map could be used to comply with this requirement. Because a map may comply with the requirements in C.R.S. § 8-4-126(3)(e) as to the form of disclosures — on a single screen, presented in a way to draw the eye to the information, and with disclosure text in a larger font — the Rule clarifies that a map image containing the information listed in C.R.S. § 8-4-126(3)(a)(IV) can comply with the requirements of the DNC Act.

3. Rule 5.1.3: No specific file type required

Rule 5.1.3 is responsive to numerous comments regarding the requirements of C.R.S. § 8-4-126(3)(b),(d) and (e). The Division received several comments requesting that it specify various format and file-type requirements for the Section 126(3) disclosures that DNCs are required to provide to drivers.²² The Division also received comments requesting that it *not* specify format and file-type requirements for these disclosures.²³ This Rule clarifies that DNCs may comply with the requirements of the statute by providing machine-readable, downloadable data, which may include historic data along with current disclosure data, even though, e.g., a spreadsheet may not have differing font sizes as provided by Section 126(3)(f). Beyond this clarification, the Rule does not prescribe any specific format or file-type requirements to allow for other methods of disclosure that are compliant with the statute.

4. Rule 5.2.2: Meaning of “encouraging” a driver to respond to a task offer in less than sixty seconds

²⁰ Written comment by Colorado Fiscal Institute (CFI), submitted 11/1/24, at 1 (“CFI is concerned that the substance of important disclosures required in the DNC Act could be obscured if DNCs overwhelm drivers or consumers with information [in Rule 5.1.2]. This could be addressed by limiting disclosures of the IRS mileage rate to the statutorily required disclosure and removing the second sentence, which could be confusing by allowing additional disclosures outside the statutes requirements.”); written comment by Towards Justice, submitted 10/31/24, at 2 (Same concern and suggestion).

²¹ [Written comment by Grubhub, submitted 10/31/24](#), at 3; written comment by Instacart, submitted 11/1/24, at 2–3; [written comment by Portier, LLC \(Uber subsidiary DNC\), submitted 9/13/24](#), at 3; written comment by TechNet, submitted 11/4/24, at 4.

²² Written comment by Towards Justice, submitted 10/31/24, at 3 (suggesting a new Rule 7.2 requiring all information shared under the statute be provided in both human- and machine-readable formats); written comment by Colorado Fiscal Institute (CFI), submitted 11/1/24, at 1 (“This data should also be accessible for drivers, and made available in machine readable format (csv) in addition to PDF. This is relevant for when drivers calculate their expenses for tax deductions; the division should add language to ensure drivers can more easily extract the data for accurate tax filing by requiring that the mileage data for (11)(e)(II) - (11)(e)(C) be made available in a .csv file”); written comment by Workers Algorithm Observatory, submitted 11/4/24, at 2 (suggesting IRS mileage be made available to drives in machine-readable (e.g., .csv) format).

²³ Written comment by DoorDash, submitted 11/4/24, at 2 (“CDLE should reject requests to add new data requirements that are not contemplated or authorized by C.R.S. § 8-4-126”); written comment by Rasier, LLC (Uber subsidiary TNC), submitted 9/13/24, at 6 (“A prescriptive requirement to disclose the information mandated by C.R.S. § 8-4-127(11) in a format other than that stated in the law is unwarranted.”).

The Division received comments seeking clarification of C.R.S. § 8-4-126(7) and proposed Rule 5.2.2.²⁴ C.R.S. § 8-4-126(7) requires that DNCs give drivers at least sixty seconds to accept or reject a delivery task and forbids DNCs from penalizing or retaliating against drivers for failing to respond in less than sixty seconds, as well as from “requir[ing] or encourag[ing] the driver to respond...in a period of less than sixty seconds[.]” Rule 5.2.2 clarifies what it means for DNCs to “encourage” drivers within the meaning of the statute. Comments requested that the Division amend the proposed Rule to account for non-financial incentives that DNCs might provide drivers, such as increased access to customer service or other forms of driver support.²⁵ The Division agrees that these incentives fit within the meaning of “encourage,” so the Rule is amended to provide that “encourage” includes rewarding drivers with any incentive, financial or otherwise.

5. Rule 5.3.1: Driver safety prompt for consumers

C.R.S. § 8-4-126(6) requires DNCs to prompt consumers “as a means to encourage the consumer to ensure driver safety upon arrival[.]” Prior to rulemaking, the Division received a comment asking for “clarification that consumer prompts may be prioritized and tailored based on context and relevance—for example, prompting consumers to ensure paths are well-lit only at night[.]” observing that “[i]f any prompt is perceived by the consumer as irrelevant, it dilutes the importance of each notification and can overwhelm the consumer.”²⁶ However, the statutory language requires prompting about a “well-lit, safe delivery path” for “*each time* a DNC connects a consumer to a driver[.]” without exception.²⁷ DNCs may otherwise tailor this prompt based on context as long as the prompt meets all statutory requirements.

Rule 5.3.1(A) (proposed Rule 5.3(A)) also clarifies that, for each delivery task, a DNC “connects” a consumer to a driver only once — so a DNC only needs to provide the safety prompt to each consumer once for each task rather than, for example, providing the prompt every time it allows the consumer and driver to communicate using the digital platform. This further addresses the dilution concern raised by the comment.

Comments on the proposed rule also sought clarification or amendment regarding the timing of this prompt.²⁸ These comments pointed out that the purpose of the safety prompt would be ill-served if it must always be provided to a consumer immediately when a driver accepts a task, because in some cases, a driver could accept a task hours before the delivery time, when a consumer is less likely to heed the prompt. The final Rule addresses these concerns by clarifying that DNCs have flexibility in the timing of the safety prompt, as long as the prompt is provided at a time that allows the consumer to review and act upon the prompt before the driver’s arrival.

Lastly, like Rule 5.1.1, final Rule 5.3.1(B) (proposed Rule 5.3(B)) clarifies that DNC Act requirements referring only to “tasks” could also apply to multiple consumers’ transactions involved in completing a task: as such, this rule makes clear that DNCs must provide the safety prompt to each consumer if multiple consumers are associated with a single task.

6. Rule 5.3.2: Amount paid by consumers does not include membership fees or dues

²⁴ Written comment by Towards Justice, submitted 10/31/24, at 2; written comment by Colorado Fiscal Institute (CFI), submitted 11/1/24, at 1–2; written comment by Walmart Inc., submitted 10/31/24, at 4.

²⁵ Written comment by Towards Justice, submitted 10/31/24, at 2; written comment by Colorado Fiscal Institute (CFI), submitted 11/1/24, at 1–2.

²⁶ Written comment by Portier LLC (Uber subsidiary DNC), submitted 9/13/24, at 4. (Portier LLC is “a subsidiary of Uber Technologies, Inc. (“Uber”), that contracts with independent couriers who deliver goods through the Uber platform”).

²⁷ C.R.S. § 8-4-126(6) (emphasis added).

²⁸ Written comment by DoorDash, submitted 11/4/24, at 2; written comment by Walmart Inc., submitted 10/31/24, at 4; written comment by TechNet, submitted 11/4/24, at 1–2; written comment by Portier, LLC (Uber subsidiary DNC), submitted 11/4/24, at 2; written comment by Rasier, LLC (Uber subsidiary TNC), submitted 11/4/24, at 4–5.

The Division received a comment requesting clarification that the “amount that the consumer paid or will pay for the transaction” under C.R.S. § 8-4-126(2) does not include membership fees or dues paid by a consumer to a DNC.²⁹ Because these are not amounts paid by a consumer “for the transaction[.]” Rule 5.3.2 clarifies that membership fees or dues need not be included in this disclosure.³⁰

F. Rule 6: Requirements as to TNCs

1. Rule 6.1.1: Deactivation and suspension policy disclosures

Rule 6.1.1, particularly Rule 6.1.1(B)–(C), clarifies the timing of requirements under C.R.S. § 8-4-127(3), which requires that TNC deactivation and suspension policies be made available to drivers, publicly posted, and sent to the Division on or before May 1, 2025. The statute further provides that the policy must be publicly posted for at least 14 days before it becomes enforceable, and C.R.S. § 8-4-127(3)(c) provides that “[a] TNC 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 this subsection (3).”

Therefore, to ensure that TNCs can deactivate or suspend drivers in compliance with their policies beginning June 1, 2025, and that the statutory posting and distribution requirements are met, policies must be distributed on or before May 1, 2025. For deactivations that occur before the June 1, 2025 effective date, TNCs do not need to comply with deactivation policies required by the TNC Act.

2. Rule 6.1.2: Deactivation and suspension notice disclosures

Prior to proposing rules, the Division received a comment requesting a rule that distinguishes PUC-required deactivations or suspensions from TNC-initiated deactivations or suspensions.³¹ After proposing these Rules, the Division received an additional comment with the same request.³² However, the TNC Act does not distinguish PUC-required deactivations or suspensions from other types of deactivations and suspensions. The PUC promulgates and enforces comprehensive regulations as to TNCs, many of which require TNCs to adopt and enforce policies related to driver health and safety, vehicle safety, and non-discriminatory provision of services to the public.³³ Exempting deactivations or suspensions based on an order from the PUC, or based on a policy that the PUC requires TNCs to adopt and enforce, would substantially limit the number of deactivations and suspensions to which the requirements of the TNC Act apply.

Indeed, many of the PUC regulations that could require TNCs to deactivate or suspend a driver charge the TNC itself with determining whether a relevant violation has occurred and/or whether a violative condition still exists or has been abated,³⁴ making the TNC well-suited to provide the driver with “a description of the steps that the driver may take, if any, to remedy the alleged violation of the TNC’s deactivation and suspension policy[.]”³⁵ Proposed Rule 6.1.2(A) clarified that “a description of steps to take” may include steps required by

²⁹ Written comment by Walmart Inc., submitted 10/31/24, at 1–2.

³⁰ C.R.S. § 8-4-126(2) (emphasis added).

³¹ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 3. The comment also requested that “CDLE consult with PUC to establish a policy stating the specific circumstances under which PUC’s enforcement agents may ask a TNC to block a driver’s access[.]” The Division has not proposed any such rule given the limited scope of the current rulemaking that is mandatory under the Acts.

³² Written comment by Lyft, Inc., submitted 11/4/24, at 2 (“Lyft submits that the Division should revise the definition of ‘Deactivation’ to limit it to only those deactivations within the sole discretion of the TNC, such as those related to trust and safety issues, ratings, etc.”).

³³ See Public Utilities Commission Transportation Rules, 4 CCR 723-6-6700 to -6725.

³⁴ See, e.g., 4 CCR 723-6-6723.

³⁵ C.R.S. § 8-4-127(4)(b)(II).

the PUC or another regulatory agency. The final Rule 6.1.2 is amended to (a) align the Rule more closely with the statutory language, and (b) avoid the possible implication that “may include” gives TNCs discretion to provide or not provide drivers with the steps they can take to resolve an alleged violation when the TNC knows what those steps are. The statute does not allow for discretion in this regard: the TNC must provide all information it has about remedial steps, even if the remedial steps ultimately come from another entity or agency.

Lastly, proposed Rule 6.1.2(B) has been removed from the final Rules because it is redundant with new Rule 7.2.

3. Rule 6.1.3: Task and pay disclosures

C.R.S. § 8-4-127(11)(f) requires TNCs to provide a monthly or more frequent disclosure to drivers which must contain information related to the driver’s activities “for the previous month or previous reporting period[.]” The Division received a comment requesting that the Division authorize that this disclosure “may be made as late as the final day (or next business day) of the following month.”³⁶ Rule 6.1.3(B) clarifies that the disclosure is required by the final day of the month (or more frequent period) following the month (or more frequent period) for which the disclosure is being made. For example, a TNC must provide a disclosure for March no later than April 30. If a TNC provides the required disclosure every 14 days, it must provide a disclosure no later than the fourteenth day following the end of the 14-day period for which it is providing the report, e.g. a disclosure for January 1 through 14 must be provided by January 28.

However, the Division is unable to extend that deadline to the next business day following the end of the month or period because the statute requires the disclosure be made for “the previous month or previous reporting period if the TNC regularly provides the disclosures required . . . more frequently than monthly[.]”³⁷ This means that a disclosure for a particular month or period *must* be made in the following month or period. The statute does not permit, e.g., a disclosure for March to be made on the first business day in May; it must be made in April. TNCs are free to provide the required disclosure before the last day of the month or other reporting period to avoid making this disclosure on a non-business day.

Rule 6.1.3(E) is added in response to a comment requesting clarification that TNCs “are permitted to provide one total amount potentially eligible for deduction” when providing the total amount that a driver may be able to deduct from income pursuant to C.R.S. § 8-4-127(11)(f)(V).³⁸ The Rule clarifies that TNCs may comply with C.R.S. § 8-4-127(11)(f)(V) by providing a single, aggregated amount.

New Rules 6.1.3(C) and (D) were added to track similar requirements adopted in Rules 5.1.2 and 5.1.3.

4. Rule 6.1.4: Disclosures to drivers regarding the Driver Support Organization

The Division proposed Rule 6.1.4 to clarify that the disclosure requirement of C.R.S. § 8-4-127(6)(b)(II)(A), to provide information about the Driver Support Organization (“DSO”) to new drivers, applies to each new driver only once, before they first provide transportation services for a TNC. The Division received a comment requesting clarification that a driver who has received the disclosure required by C.R.S. § 8-4-127(6)(b)(II)(A) is also still entitled to the disclosure required by C.R.S. § 8-4-127(6)(b)(II)(B), which requires TNCs to provide

³⁶ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 5.

³⁷ C.R.S. § 8-4-127(11)(f).

³⁸ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 4.

DSO information to drivers upon suspension or deactivation.³⁹ Rule 6.1.4 is amended to avoid confusion regarding this statutory requirement: each disclosure is required in each circumstance.

5. Rule 6.2: TNC disclosures to the Division

The Division received comments requesting additional rules specifying various requirements that would apply to TNCs' disclosures made to the Division.⁴⁰ Such rules, however, would be outside the mandatory scope of this rulemaking, and Rule 3.1 allows the Division to specify the form of disclosures through other non-rulemaking means, such as by guidance or other instructions. These alternative means afford the Division and TNCs with flexibility to utilize additional time to consult and collaborate in determining the form of disclosures based on multiple considerations (e.g., accounting for variations in how TNCs house data in different formats, selecting of a sampling methodology pursuant to C.R.S. § 8-4-127(9)(d)).

a. Rule 6.2.1: Timing of annual transportation task number disclosure

Rule 6.2.1 defines “the preceding year” for purposes of the annual task number disclosures required under C.R.S. § 8-4-127(6)(a)(VIII) as the entire calendar year (January 1 to December 31) prior to the year in which the disclosure is made, rather than the 365-day period preceding the date of the disclosure, to ensure that each TNC’s disclosed annual task numbers apply to the same period of time.

b. Rule 6.2.2: Semiannual disclosures to the Division

C.R.S. § 8-4-127(9) requires TNCs to make semiannual disclosures to the Division. As a comment pointed out, the statute does not specify either the reporting period for the disclosures or the deadline by which they must be provided to the Division.⁴¹ The comment recommended the reporting periods and deadlines that the Division specified in Rule 6.2.2(A): January 1 through June 30 for the August disclosure (due August 1 of each year, beginning in 2026), and July 1 through December 31 for the February disclosure (due February 1 of each year, beginning in 2027). The proposed Rule 6.2.2(A) is amended to further clarify the initial and ongoing due dates of each disclosure.

As to Rule 6.2.2(B), defining “demographic information,” one comment stated that the Rule expands the definition beyond the authority of the TNC Act.⁴² However, the clarified definition of “demographic information” is permitted by the statute, which does not define “demographic information” except to indicate that it “*includ[es]* [the driver’s] gender and gender identity and the default language the driver has selected in the TNC’s digital platform[.]”⁴³ The use of “including” means that the three listed items are a non-exclusive list, and Rule 6.2.2(B) provides additional, non-exhaustive examples of such information. Of course, as the rule provides, TNCs are only required to provide in their disclosures demographic information that they collect or

³⁹ Written comment by Towards Justice, submitted 10/31/24, at 2.

⁴⁰ Written comment by Colorado Fiscal Institute (CFI), submitted 11/1/24, at 1–3 (“We suggest adding Rule 6.5 to clarify that each TNC must allow the Division Access Point Interface (API) access to a database that the company hosts, and that this includes all information that the TNC is required to provide to the Division pursuant to C.R.S. § 8-4-127(9) in machine-readable .csv format.”); written comment by Towards Justice, submitted 10/31/24, at 2–3 (similar request); written comment by Workers Algorithm Observatory, submitted 11/4/24, at 3 (requesting specific requirements for the “sampling methodology” referenced in C.R.S. § 8-4-127(9)(d)); written comment by Lyft, Inc., submitted 11/4/24, at 3–4 (requesting additions to the Rules to “provide appropriate protection” for “sensitive information” included in TNC disclosures to the Division); written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 3–4 (requesting that the Division provide TNCs with a “data dictionary” specifying the format of disclosures).

⁴¹ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 3.

⁴² Written comment by Lyft, Inc., submitted 11/4/24, at 2–3.

⁴³ C.R.S. § 8-4-127(9)(c) (emphasis added).

possess, so this rule to explain the definition of “demographic information” does not create additional obligations beyond those required by statute.

6. Rule 6.3: Annual Driver Support Organization budget and quarterly remittance by TNCs

Rule 6.3.2 is amended to conform more closely to statutory language regarding the timing of the task number disclosure required by C.R.S. § 8-4-127(6)(a)(VIII).

Rule 6.3.5 is amended in response to a comment requesting clarification as to when TNCs will be required to remit the first “quarterly share” of the DSO’s annual budget pursuant to C.R.S. § 8-4-127(6)(a)(VI).⁴⁴ Rule 6.3.5 now clarifies that the timing of that requirement follows the Division’s approval of the DSO’s proposed annual budget, with the first quarterly share required no later than 15 days following the end of the calendar quarter during which the Division approves the certified DSO’s proposed annual budget. To illustrate, for budget approval during the second calendar quarter, April to June, the first quarterly share must be remitted to the certified DSO no later than July 15 — 15 days after the end of the second calendar quarter.

G. Rule 7: Requirements as to Both DNCs and TNCs

1. Rule 7.1: Translations

Both the DNC and TNC Acts require DNCs and TNCs to translate and provide certain disclosures in English, Spanish, and Arabic, plus up to three additional languages determined by the Division. Based on stakeholder input, the Division has determined three additional languages commonly spoken by DNC and TNC drivers in the state: Amharic and Swahili, which were included in the proposed Rules, and Nepalese, which was added to the final Rules based on a comment at the October 30, 2024 public hearing.⁴⁵ While the Division received multiple comments requesting an extended “implementation timeline” to provide translations into additional languages required under Rule 7.1, the Division is limited by the timeframes set by the Acts.

2. Rule 7.2: Information Not Available for Disclosures

Rule 7.2 is responsive to several comments requesting exemption from, or clarification of, certain disclosure requirements when some or all of the information required to be in the disclosure does not exist, or is not yet in the possession of a DNC or TNC, at the time it is required to make the disclosure. For example, one comment noted that some DNCs allow consumers to add or adjust tips after the time of the delivery, but C.R.S. § 8-4-126(3)(b)(II) requires DNCs to disclose to drivers, within 24 hours after a driver completes a delivery task, “the full and accurate amount of any tip paid by the consumer[.]”⁴⁶ However, the Division cannot extend the timing of the statutory disclosure requirements, or allow exemption from providing the disclosure, where a DNC or TNC lacks some of the information required by the disclosure. Rule 7.2 clarifies that when a DNC or TNC lacks and cannot obtain information required by a disclosure, the deadline to make that disclosure is not extended nor is the requirement to provide the disclosure negated. Rather, the DNC or TNC must make the disclosure as completely as possible by the required deadline, and promptly notify the recipient of the disclosure as soon as possible if and when it acquires the information that it previously lacked (e.g., by sending a follow-up email notifying a driver that a tip has been added or adjusted).

⁴⁴ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 11/4/2024, at 2.

⁴⁵ The October 30, 2024 Hearing was the Division’s rulemaking public meeting for hearing oral testimony from Coloradans regarding the proposed Data Labor Rules. A recording of the hearing is publicly available on the Division’s Labor Rules webpage at cdle.colorado.gov/LaborRules.

⁴⁶ Written comment by Walmart Inc., submitted 10/31/24, at 2.

H. Other Changes

The adopted Rules include various other technical or otherwise non-substantive changes where stakeholders suggested, and/or Division review found a need for, clarifications or corrections (e.g., Rules 1.2 and 2.4).

Finally, the Division plans to address some points raised by commenters in updates to its published interpretative guidance, rather than by rule. These include implementation needs and issues of technical complexity such as the interaction of C.R.S. § 8-4-126(7)'s prohibition on encouraging drivers to respond to task offers in less than 60 seconds with a pre-scheduled delivery block compensation model.⁴⁷ Because TNC and DNC interfaces vary, rules on such topics may be overly rigid, and may not capture all nuances of how different aspects of the law may affect DNC and TNC practices. At this early stage of regulation in this fast-changing industry, the Division finds that a more collaborative and flexible approach is the best way to address these types of challenges. Accordingly, the Division will update its [Interpretive Notice and Formal Opinions \(INFO\) Sheet #23](#), Delivery and Transportation Network Companies: Driver Rights and Labor Transparency, on these laws and this rule set, before the effective date, to provide further guidance on implementation of the DNC and TNC Acts' requirements.⁴⁸

V. Effective Date:

These Rules take effect January 1, 2025, or as soon after as rulemaking completes.



Scott Moss
Director, Division of Labor Standards and Statistics
Colorado Department of Labor and Employment
Dated: November 13, 2024

⁴⁷ See written comment by TechNet, submitted 11/4/24, at 2. (“[T]he pre-scheduled block model operates more like a flexible marketplace where DNCs make blocks of time available on a first-come, first-served basis, allowing drivers the freedom to pick up work according to their own schedules and availability. Imposing a strict 60-second[] acceptance window for these pre-scheduled blocks is not technically feasible given the dynamic, marketplace-style nature of these blocks. Implementing such a requirement would disrupt the flexibility and efficiency of the pre-scheduled block model, to the detriment of both drivers and customers.”).

⁴⁸ Division INFO Sheets and other published guidance are available at: cdle.colorado.gov/INFOs.