



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 proposed September 30, 2024, to be followed and replaced by a final Statement at the conclusion of the rulemaking process.

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 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. 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 both 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 72 hours or longer.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 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 exemption.⁵ 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[.]”⁶ If a TNC is required by the Public Utilities Commission (“PUC”), or otherwise by law, to deactivate or suspend a driver, the TNC can communicate the requirement and, to the extent known, the underlying conduct or issue triggering it to the driver.⁷

¹ The Division will issue a technical correction in the adopted rules to acknowledge 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 The TNC Act contains only one discretionary exemption to the deactivation and suspension notice and reconsideration requirements: C.R.S. § 8-4-127(3)(a)(III), which states that TNCs, in a deactivation and suspension notice, need not “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.”

⁶ C.R.S. § 8-4-127(4) (emphasis added).

⁷ See Rule 6.1.2(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”).

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

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.⁸ The DNC and TNC Acts require deactivation reconsideration opportunity and notice only for “drivers” — those who are “providing[,]”⁹ or do “provide[,]”¹⁰ services using a company’s digital platform. Therefore, DNCs and TNCs need not provide that reconsideration opportunity to unsuccessful applicants.¹¹ Accordingly, Rule 2.3(B) clarifies that “deactivation” does not apply to 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.

C. 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.

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.

D. 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.¹² 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.

2. Rule 5.3: 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[.]” 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

⁸ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 2–3.

⁹ C.R.S. § 8-4-126(1)(f).

¹⁰ C.R.S. § 40-10.1-602(4).

¹¹ 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).

¹² C.R.S. § 8-4-126(1)(d).

dilutes the importance of each notification and can overwhelm the consumer.”¹³ 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.¹⁴ DNCs may otherwise tailor this prompt based on context as long as the prompt meets all statutory requirements.

Like Rule 5.1.1, 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 a DNC must provide the safety prompt to each consumer if multiple consumers are associated with a single task.

E. 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). The statute requires that the deactivation and suspension policy be made available to drivers, publicly posted by the TNC, 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 30 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 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 under the TNC Act.

2. Rule 6.1.2: Deactivation and suspension notice disclosures

The Division received a comment requesting a rule that distinguishes PUC-required deactivations or suspensions from TNC-initiated deactivations or suspensions.¹⁵ However, the DNC and TNC Acts do 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.¹⁶ Exempting deactivations or suspensions based on an order from the PUC, or based on a policy that the PUC required a TNC 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,¹⁷ making the TNC well-suited to provide the driver “a description of the steps that

¹³ [Written comment by Portier LLC, 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”).

¹⁴ C.R.S. § 8-4-126(6) (emphasis added).

¹⁵ 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.

¹⁶ See Public Utilities Commission Transportation Rules, 4 CCR 723-6-6700 to -6725.

¹⁷ See, e.g., 4 CCR 723-6-6723.

the driver may take, if any, to remedy the alleged violation of the TNC’s deactivation and suspension policy[.]”¹⁸ Rule 6.1.2(A) clarifies that “a description of steps to take” may include steps required by the PUC or another regulatory agency.

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 a driver, 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.”¹⁹ 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[.]”²⁰ 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.

4. Rule 6.2: TNC disclosures to the Division

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 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.

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.²¹ 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).

F. Rule 7: Requirements as to both DNCs and TNCs

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

¹⁸ C.R.S. § 8-4-127(4)(b)(II).

¹⁹ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 5.

²⁰ C.R.S. § 8-4-127(11)(f).

²¹ Written comment by Rasier LLC (Uber subsidiary TNC), submitted 9/13/24, at 3.

input, the Division has determined two additional languages, Amharic and Swahili, are languages commonly spoken by DNC and TNC drivers in the state, and has specified these in Rule 7.²²

V. Effective Date:

If adopted, 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: October 25, 2024

²² The Division received two comments requesting an extended “implementation timeline” to provide translations into additional languages required under Rule 7. On this point, however, the Division is limited by the timeframes set by the Acts.