

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21R-0467TR

IN THE MATTER OF THE PROPOSED AMENDMENTS TO MOTOR VEHICLE RULES,
4 CODE OF COLORADO REGULATIONS, 723-6, RESULTING FROM THE STATUTORY
CHANGES FOUND IN SENATE BILL 20-118, HOUSE BILL 21-1206, AND SENATE
BILL 21-260.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: October 14, 2021
Adopted Date: October 6, 2021

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I. BY THE COMMISSION**A. Statement**

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking (NOPR) to consider amendments to Motor Vehicle Rules, 4 *Code of Colorado Regulations*, 723-6 of the Rules Regulating Transportation by Motor Vehicle. The Commission has statutory authority to adopt these rules under § 40-2-108 and § 40-10.1-106, C.R.S.

2. The Commission issues this NOPR to review, examine, and consider revisions to its rules regarding motor vehicles, as it pertains to legislative and statutory changes incorporated by multiple bills passed by the Colorado Legislature during the 2020 and 2021 sessions. The proposed amendments to the Motor Vehicle Rules are available for review as Attachment A (redline) and Attachment B (clean) to this Decision through the Commission's Electronic Filings website (Proceeding No. 21R-0467TR) at <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

3. The proposed amendments reflect the Commission's intent to amend and update Motor Vehicle Rules to make them congruent with the changes made to various statutes, upon which the current rules are based.

4. The Commission welcomes comments from interested rulemaking participants, regarding the amendments proposed in this NOPR. To the extent a participant disagrees with the proposed amendments, they are encouraged to submit comments that include any suggested revisions to the rule language in legislative (*i.e.*, *strikeout*) format.

B. Background

5. On June 29, 2020, Governor Jared Polis signed Senate Bill 20-118 (SB20-118), Hazardous Materials Transportation Permit Issuance. This bill transferred the function of issuing

permits for the transportation of hazardous and nuclear materials by motor vehicle from the Commission to the Colorado Department of Transportation (CDOT). The bill amended various statutes, removing references to the Commission and inserting CDOT, including § 42-20-201, § 42-20-202, § 42-20-203, § 42-20-205, § 42-20-402, § 42-20-405, § 42-20-406, § 42-20-501, § 42-20-505, § 42-20-506, and § 42-20-511, C.R.S. The effective date of this regulatory reallocation was January 1, 2021.

6. On June 27, 2021, Governor Jared Polis administratively signed House Bill 21-1206 (HB21-1206), Medicaid Transportation Services. This bill transferred the regulatory jurisdiction of nonmedical transportation (NMT) and nonemergency medical transportation (NEMT) provided to Medicaid recipients from the Commission to the Colorado Department of Health Care Policy & Financing. The bill amended various statutes, removing references to Medicaid Client Transport (MCT) carriers, including § 40-10.1-110, § 40-10.1-301, and § 40-10.1-302, C.R.S. Furthermore, the bill amended § 40-10.1-105, C.R.S., to include NMT and NEMT transportation provided through Medicaid as a type of transportation not subject to regulation by the Commission. The effective date of this regulatory reallocation was June 28, 2021.

7. On June 17, 2021, Governor Jared Polis signed Senate Bill 21-260 (SB21-260), Sustainability of the Transportation System. This bill, in part, amended § 40-10.1-605, C.R.S., removing the requirement for Transportation Network Company (TNC) drivers to comply with Commission rules regarding medical fitness. The amendment adds a new standard for TNC drivers, whereby they are required to self-certify to the TNC that they are physically and mentally fit to drive. The effective date of this change was June 18, 2021.

C. Discussion of Proposed Amendments to Motor Vehicle Rules

8. The proposed amendments to the Motor Vehicle Rules are shown in Attachment A (redline) and Attachment B (clean) to this Decision. These changes reflect the rule changes discussed below.

1. SB20-118 (Hazardous Materials Transportation Permit Issuance)

9. Due to the statutory changes adopted by SB20-118, it is necessary for various sections of Commission rules to be amended to remove references to hazardous and nuclear materials and related carriers. This includes the initial Basis, Purpose, and Statutory Authority section, as well as Rules 6000, 6001(III), 6009(a), 6009(e), and 6009(f). In addition, it is proposed that Rules 6001(kk), 6001(fff), and 6010 be eliminated, in their entirety, as they are no longer relevant.

2. HB21-1206 (Medicaid Transportation Services)

10. Due to the statutory changes adopted by HB21-1206, it is necessary for various sections of Commission rules to be amended to remove references to MCT transportation services and related carriers. This includes the initial Basis, Purpose, and Statutory Authority section, as well as Rules 6001(qq), 6015(a)(V), and 6018(e). In addition, it is proposed that Rules 6001(xx), 6001(yy), 6001(zz), 6301(f), 6301(g), and 6301(h) be eliminated, in their entirety, as they are no longer relevant.

3. SB21-260 (Sustainability of the Transportation System)

11. Due to the statutory changes adopted by SB21-260, it is necessary for various sections of Commission rules to be amended to update the medical certification requirements for TNC drivers. This includes Rules 6708(a), 6708(b), 6710(c)(VI), 6710(c)(VII), 6713, and 6716(a).

4. Miscellaneous Amendments

12. Due to the proposed eliminations to Rule 6001 (Definitions), as noted above, it is proposed that the remaining paragraphs in this section be renumbered, as appropriate. As a result of the renumbered paragraphs, two additional rules are impacted due to their inclusion of paragraphs being renumbered. This includes Rules 6110(a) and 6117(a). It is proposed that these rules be amended, limited to an update of the renumbered paragraphs. This is necessary to maintain the accuracy of references captured by these rules. Also, due to the proposed eliminations to Rule 6301 (Definitions), as noted above, it is proposed that the remaining paragraphs in this section be renumbered, as appropriate.

D. Conclusion

13. Through this NOPR, the Commission solicits comments from interested persons and stakeholders on whether to adopt, revise, or not adopt, some or all the proposed amendments to the Motor Vehicles Rules, as set forth in the attachments to this Decision and discussed above. The Commission encourages members of the transportation industry and other interested persons to participate in the rulemaking proceeding and to contribute to the rulemaking record, on which the Commission will base its decision on whether to adopt rule amendments.

14. The Commission refers this matter to an Administrative Law Judge (ALJ) for the issuance of a recommended decision. The ALJ will hold a hearing on the proposed rules at the below-stated time and place. In addition to submitting written comments, participants will have an opportunity to present comments orally at the hearing, unless the ALJ deems oral presentations unnecessary. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking, including attachments, shall be filed with the Colorado Secretary of State for publication in the October 25, 2021 edition of *The Colorado Register*.

2. The Commission invites comments from interested persons on the proposed amendments to the Commission’s Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations*, 723-6, as described in this Decision and its attachments. The Commission prefers and encourages interested persons to file comments through the Commission’s Electronic Filings website (Proceeding No. 21R-0467TR) at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=21R-0467TR.

3. This matter is referred to an Administrative Law Judge (ALJ) for the issuance of a recommended decision.

4. The rulemaking hearing on the proposed rules and related matters shall be held before an ALJ, as follows:

DATE November 17, 2021

TIME: 9:00 a.m. until not later than 5:00 p.m.

PLACE: By video conference using Zoom at a link in the calendar of events on the Commission’s website, available at:
<https://puc.colorado.gov/>

5. The ALJ will set procedures for a remote hearing, if necessary, by a separate decision issued in this Proceeding.

6. The ALJ may set additional hearings, if necessary.

7. Written comments may be filed at any time in this Proceeding. Initial written comments are requested to be filed no later than October 25, 2021, and any comments responsive to the initial comments are requested to be filed no later than November 8, 2021, so that the initial comments and responsive comments may be considered at the hearing.

8. At the time set for hearing, interested persons may submit written comments and may present these orally, unless the ALJ deems oral comments unnecessary. The Commission will consider all comments, whether written or oral.

9. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 6, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners