



COLORADO

Department of Transportation

Office of Policy and Government Relations

4201 East Arkansas Avenue, Room 275
Denver, CO 80222-3406

DATE: April 25, 2014
TO: Transportation Commission
FROM: Herman Stockinger / Anthony DeVito
SUBJECT: Rules Governing the Use of Tunnels on Colorado State Highways, 2 CCR

Action Requested: The Commission is requested to approve a resolution adopting the proposed Tunnel Rules.

Files Attached:

- (1) Resolution
- (2) Administrative Hearing Officer's Summary of Public Rule-Making Hearing and transcript of hearing
- (3) Red-line version of Tunnel Rules showing changes from Temporary Rules adopted by Commission on January 16, 2014
- (4) Clean version of Tunnel Rules submitted for adoption

Executive Summary:

The Tunnel Rules govern the use of tunnels on state highways. Primarily, the rules, which have the effect of law, state what process motor carriers must follow regarding the use of the Eisenhower Johnson Memorial Tunnel ("EJMT") when Loveland Pass is closed, and what hazardous materials are prohibited from using the EJMT at all times, in accordance with federal regulations. The adoption of the Tunnel Rules is the last step required of the Commission to complete the rule-making process.

Background

The Commission is authorized to promulgate this set of rules under § 43-1-106(8)(k), C.R.S., § 42-4-106 (7)(a) and (b), C.R.S., and § 42-20-301(3), C.R.S.



The Commission opened this rule-making process on January 16, 2014 (Resolution No. TC-3131 dated January 22, 2014) and authorized an administrative hearing officer to preside over a rule-making hearing. At the same time, the Commission also adopted temporary rules (Resolution No. TC-3132 dated January 22, 2014) in order to have a set of rules in place with correct federal citations and clear direction on the procedures for use of the Eisenhower-Johnson Memorial Tunnel by motor carriers carrying placarded hazardous material loads.

The Department continued to work with key stakeholders (including Colorado Motor Carriers Association [CMCA] and the Colorado Wyoming Petroleum Marketers Association [CWPMA]) following adoption to test the effectiveness of the temporary rules and make any necessary changes. A public rule-making hearing was held on March 28, 2014.

Details:

As the Administrative Hearing Officer's Summary indicates, the Department has met the requirements of the State Administrative Procedure Act, § 24-4-103, C.R.S. The proposed rules have been improved based on the collaborative efforts with CMCA and CWPMA throughout this nine-month rule-making process. The complete rule-making record is available for review in the Commission Office.

Key Benefits:

The Tunnel Rules impact the travelling public generally, and specifically motor carriers. The clarity of the proposed rules will aid CDOT and the Colorado State Patrol personnel in the management of hazardous material loads, and will ultimately aid in the goal of keeping traffic moving through the EJMT. Revising the rules at this point will provide a foundation for a future revision, if needed, when the fire suppression system is installed in the EJMT.

Next Steps:

Following the Commission's adoption of the rules, the Department will file the rules with the Secretary of State. They will become effective on or around July 15, 2014.



MEMORANDUM

DEPARTMENT OF TRANSPORTATION

Right of Way Program
4201 East Arkansas Avenue 4th floor
Denver, Colorado 80222
(303) 757-9836



DATE: April 18, 2014

TO: Colorado Transportation Commission

FROM: Christine Rees, ^{CR}Administrative Hearing Officer

SUBJECT: Rulemaking Hearing on Proposed Rules 2 CCR 601-8
The Rules Governing the Use of Tunnels on Colorado State Highways

Background:

The Rules Governing the Use of Tunnels on Colorado State Highways, 2 CCR 601-8, govern all tunnels on state highways in Colorado. These rules specifically address the use of the Eisenhower-Johnson Memorial Tunnels ("EJMT") by placarded loads of hazardous materials during Loveland Pass closures.

Pursuant to § 43-1-106(8)(k), and § 42-4-106(7)(a) and (b), C.R.S., the Colorado Transportation Commission ("Commission") has the authority to adopt rules governing tunnels on state highways. The Commission, by Resolution TC 3131 dated January 22, 2014, opened rulemaking and authorized an Administrative Hearing Officer to conduct a hearing on proposed changes to the rules (Exhibit 1B). By Resolution TC 3132 dated January 22, 2014, the Commission adopted temporary rules which were effective immediately. As stated in this Resolution, temporary rules were necessary in order to conform to the rules to current federal regulations, eliminate obsolete information and provide clearer guidance to the travelling public.

Summary of Hearing and Factual Findings

Pursuant to § 24-4-103(4)(a), C.R.S., the State Administrative Procedure Act, a public hearing was held on March 28, 2014 in the auditorium at the CDOT Headquarters Complex, in Denver, Colorado. A court reporter was present, and a transcript of this hearing is attached. Acting as your delegated Administrative Hearing Officer, I opened the hearing at 2:06 p.m.

Mary Frances Nevans, CDOT Rules Administrator, stated that the hearing was held to meet the requirements of the State Administrative Procedure Act ("APA") with regard to both temporary and permanent rules (Transcript p. 6). Ms. Nevans reviewed the exhibits which demonstrated the Department's compliance with the APA regarding the adoption of temporary rules (Exhibit 1B and C), the request for an opinion from the Office of the Attorney General on the temporary rules (Exhibit 3A), the filing of the rules with the Colorado Secretary of State's Office (Exhibit 3B), and the publication of the temporary rules in the Colorado Register (Exhibit 3D). The temporary rules adopted by the Commission and filed with the Colorado Secretary of State were included in the record as Exhibit 10.

Ms. Nevans reviewed the exhibits establishing the Department's compliance with the APA regarding permanent rules, including filing of the permanent rules with the Colorado Secretary of State (Exhibit 3C and D) and the Department of Regulatory Agencies, (Exhibit 4). Exhibit 4D confirmed that no cost-benefit analysis was required for these rules. (Transcript p. 9)

The record includes the communications with key stakeholders later included in the Representative Group and Interested Parties (Transcript pp. 10, 11, referring to Exhibit 6 and 12). It also includes the communications with the Representative Group (Transcript pp. 11 and 12, referencing Exhibit 7). Ms. Nevans referred to Exhibit 8 as evidence of the notification to and communications with the Interested Parties (Transcript p. 12). With regard to the compliance with the APA, Ms. Nevans noted that the Department:

- Obtained proper hearing delegation from the Transportation Commission (Exhibit 1 and 2).
- Requested an Attorney General Certification regarding temporary rules (Exhibit 3A).
- Filed the temporary rules with the Colorado Secretary of State (Exhibit 3B).
- Filed a timely Notice of Rulemaking regarding permanent rules with the Secretary of State (Exhibit 3C).
- Published the Notice in the Colorado Register (Exhibit 3D).
- Posted the proposed rules to the CDOT website on January 22, 2014 (Exhibit 5A) and posted subsequent revisions thereafter (Transcript p. 9).
- Requested comments from the Representative Group and Interested Parties and notified them of the date, time and location of the hearing and requested comments (Exhibit 7 and 8).
- Has been requested to maintain a permanent file of the rulemaking record (Exhibit 5B).
- Posted timely notice of the rulemaking hearing the lobby of the Department Headquarters Building, (Exhibit 5C).

Mr. Michael Salamon, Maintenance Superintendent for the EJMT provided testimony on the changes made to the temporary rules as a result of several severe snowstorms after they took effect. The changes are included in the record as Exhibit 11. (Transcript p. 17, 18 and 19).

Main Issues

I make note for the record the following testimony and CDOT response even though the testimony did not result in a change to the rules.

Mr. Greg Fulton, President of the Colorado Motor Carriers Association ("CMCA"), testified and made certain recommendations. Mr. Fulton voiced CMCA's approval of CDOT's eliminating the temporary rule concerning required staging at certain exits. (Transcript p. 25, ll. 18-20) He also acknowledged the improved communication to the hazardous materials motor carrier companies regarding travelling conditions on I-70 and Loveland Pass closures. (Transcript p. 25 ll. 10 – 12).

One of Mr. Fulton's comments concerned proposed permanent rule 3.05(B). (Exhibit 11, page 13). He suggested expanding the scope of the window of time between 11 p.m. and 6 a.m. wherein designated hazardous material loads are permitted to use the EJMT when Loveland Pass is closed on the half hour. He suggested that the rule apply to whenever "adverse conditions" exist, i.e.,

during the winter months even when Loveland Pass is open. (Transcript p. 22, ll. 3 – 7; p. 27, ll. 2 – 14). This, he explained, would advocate for greater safety for the hazardous material loads which otherwise are required to use Loveland Pass. (Transcript p. 22 ll. 4 – 7).

He also emphasized certain issues which did not directly result in recommended changes to the rules. They included the importance of maintenance on Loveland Pass (Transcript p. 26, ll 9 – 25; p. 27, l. 1), and other areas of improvement to I-70 which would support motor carriers travelling in this corridor (parking and services for motor carriers). (Transcript p. 24).

Herman Stockinger, on behalf of CDOT, responded to Mr. Fulton's comment regarding expanding the 11 p.m. to 6 a.m. window to the winter months even when Loveland Pass was open. (Transcript p. 29, ll. 9 – 25; p. 30, ll. 1 – 2). Mr. Stockinger stated that expanding the use of the EJMT as suggested by Mr. Fulton was a hazmat routing question, and would be addressed by the Colorado State Patrol in the Patrol's rules. (Transcript p. 29, ll. 7 – 23).

Jordan Chase, Assistant Attorney General, was present at the hearing, and concluded that the rulemaking procedure, including the hearing was carried out in accordance with the State Administrative Procedure Act.

Findings and Conclusions of Law

I have reviewed the entire record of this proceeding. The record consists of all exhibits (1 through 12, and the attendance record marked as Exhibit 13) from the March 28, 2014 hearing. I find that:

1. All requirements of the State Administrative Procedure Act, § 24-4-103 C.R.S. have been satisfied with regard to both temporary and permanent rules.
2. The Transportation Commission has the authority to adopt the Proposed Rules if they so choose.
3. The proposed changes to the temporary rules as noted in Exhibit 11 are warranted.

Decision

You must review the record of these proceedings prior to adopting the rules, and any action must be based upon, and supported by, the record. Copies of the entire exhibit packet are available for your review. The record supports adoption of the proposed rules, and pursuant to § 24-4-103 C.R.S., you may choose to adopt these rule changes. Having reviewed the entire record of this proceeding, acting as Administrative Hearing Officer in this matter, I recommend that the Commission adopt the proposed rules.

I prepared a resolution for adoption of the proposed rules.

cc: Don Hunt, CDOT Executive Director
Herman Stockinger, Commission Secretary

1 STATE OF COLORADO
2 DEPARTMENT OF TRANSPORTATION
3 TRANSPORTATION COMMISSION

4 _____
5 TRANSCRIPT OF PUBLIC MEETING
6 Proposed Rules re 24-4-103 (4)(a)
7 Held on March 28, 2014

8 _____
9 REPORTER'S TRANSCRIPT
10 _____

11 The above-entitled public meeting was
12 held at 4201 East Arkansas Avenue, Denver, Colorado, in
13 the Auditorium, on Friday, March 28, 2014, at
14 2:06 p.m., before Teresa Hart, Registered Professional
15 Reporter and Notary Public.
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1 SPEAKERS:
 2 CHRISTINE REES, Hearing Officer
 3 Mary Frances Nevans, Esq.
 4 Jordan Chase, Senior Assistant Attorney General
 5 Michael Salamon
 6 Herman Stockinger
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 8 Public Attendee Speakers:
 9 Greg Fulton
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1 available at the back of the room. And we ask everyone
 2 to indicate if they'd like to speak at our meeting on
 3 the sign-in sheet.
 4 And even if you don't intend to speak or
 5 present, we'd still like you to sign in. So if you
 6 haven't signed in, please do so.
 7 The procedure we'll follow today is
 8 relatively informal. I will allow everyone an
 9 opportunity to speak who wishes to do so. This hearing
 10 is limited only to the rules identified in the notice
 11 of rulemaking that was published in the Colorado
 12 Register. And the notice is part of the packet today.
 13 So please limit your comments just to this set of
 14 rules.
 15 So first the Department will give a
 16 presentation on the rules at issue. The staff will
 17 describe the reason why the Department is recommending
 18 amendment to the rules and will review and submit
 19 exhibits.
 20 If anyone has questions, feel free to
 21 raise your hand. But basically, we'd like you to wait
 22 and save your questions until the part where the public
 23 gets an opportunity to speak.
 24 You can also submit a written statement
 25 if you do not wish to speak. If your written

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1 PROCEEDINGS
 2 * * * * *
 3 MS. REES: Good afternoon. I will now
 4 call this hearing to order. This is a rulemaking
 5 proceeding pursuant to the Colorado Revised Statutes
 6 24-4-103 (4)(a) of the state Administrative Procedures
 7 Act concerning revisions to the rules governing the use
 8 of tunnels on Colorado state highways 2 CCR 601-8.
 9 Section 42-4-106(7)(a) and (b) CRS authorizes the
 10 Transportation Commission to promulgate these rules.
 11 Today is March 28th, 2014. It is now
 12 six minutes, almost, after 2:00. This hearing is being
 13 conducted at the Colorado Department of Transportation,
 14 4201 East Arkansas Avenue, in the auditorium, Denver,
 15 Colorado.
 16 My name is Christine Rees. I am an
 17 administrative hearing officer for the Department of
 18 Transportation, which I will refer to as the
 19 Department.
 20 I am presiding at this rulemaking hearing
 21 based upon a delegation of authority from the
 22 Transportation Commission dated January 22nd, 2014,
 23 which is included in the exhibits book as Exhibit 1.
 24 Sets of the rules we are reviewing today
 25 are in the back of the room. A sign-in sheet is also

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1 submission has not already been provided to the
 2 Department of Transportation, you may still do so
 3 today. Does anyone have a written presentation at this
 4 time?
 5 I will then invite -- after staff and the
 6 public have had an opportunity to speak, I will invite
 7 a representative of the attorney general's office to
 8 make any statements concerning the rules or procedures;
 9 after which I will make a finding as to whether or not
 10 the rulemaking procedure, including the hearing, was
 11 conducted in compliance with the state Administrative
 12 Procedure Act.
 13 At the conclusion of the hearing today
 14 the period for testimony on this rule will be closed.
 15 I will prepare a record for the consideration of the
 16 Transportation Commission. And it will include all of
 17 the exhibits and all of the testimony today both
 18 written and oral. The Transportation Commission will
 19 consider all this information when they make a decision
 20 on whether or not to adopt the revised rules.
 21 So I think I'd like to invite staff to
 22 come up now. If you could please state your name and
 23 your position for the record, we'll get started.
 24 MS. NEVANS: Thank you, Madam Hearing
 25 Officer. My name is Mary Frances Nevans. And I'm the

Proposed Rules re 24-4-103 (4)(a) - March 28, 2014

<p style="text-align: right;">6</p> <p>1 rules administrator for CDOT. 2 This rulemaking hearing is intended to 3 meet the requirements of both temporary and permanent 4 rules. Temporary rules were adopted by the 5 Transportation Commission on January 16th, 2014. 6 The state Administrative Procedure Act 7 requires that an agency hold a hearing after adoption 8 of temporary rules to provide the public with an 9 opportunity to give comments. 10 Today is March 28th, 2014. The notice of 11 rulemaking was filed with the Colorado secretary of 12 state on January 21st, 2014, and was published in the 13 Colorado Code of Regulations on February 10th, 2014, 14 meeting the requirement that the hearing be held no 15 earlier than March 2nd, 2014. 16 I would now like to review the exhibits 17 in order to establish that the Colorado Department of 18 Transportation met all of the requirements of the state 19 Administrative Procedure Act. 20 If Madam Hearing Officer finds that the 21 Department fully complied with the Administrative 22 Procedure Act and you find sufficient grounds exist to 23 amend the permanent rules, the request to amend the 24 rules will be provided to the Transportation Commission 25 for final approval and adoption.</p>	<p style="text-align: right;">8</p> <p>1 documents with regard to the Colorado secretary of 2 state. 3 Exhibit 3A is a copy of a request for an 4 attorney general confirmation dated January 17th, 2014, 5 regarding that office's review of temporary rules. 6 Exhibit 3B is the rule filing 7 confirmation establishing that the Department filed the 8 temporary rules with the Colorado secretary of state on 9 January 28th, 2014, after the attorney general 10 confirmation issued. 11 Exhibit 3C is a copy of the notice of 12 rulemaking confirmation establishing that the 13 Department filed the permanent rules with the Colorado 14 secretary of state on January 21st, 2014. 15 The notice contains the hearing date, 16 time, and location as required by 24-4-103(3)(a) CRS, 17 and has been continually published on the secretary of 18 state's website since that time. 19 Exhibit 3D is a copy of the Colorado 20 Register dated February 10th, 2014, establishing the 21 publication date of both the temporary rules on page 2 22 and the permanent rules on page 3. 23 Exhibit 4 consists of compliance 24 documents filed with and generated by the Department of 25 Regulatory Agencies.</p>
<p style="text-align: right;">7</p> <p>1 To review the exhibits: Exhibit 1 and 2 2 include documents submitted to and issued by the 3 Transportation Commission. Exhibit 1A is a memo from 4 the Department to the Transportation Commission dated 5 January 3rd, 2014, requesting adoption of temporary 6 rules. 7 Exhibit 1B is a copy of Transportation 8 Commission Resolution TC-3132 dated January 22nd, 2014, 9 adopting temporary rules and directing the Department 10 to take all necessary steps to comply with the state 11 Administrative Procedure Act. 12 Exhibit 1C is a copy of the justification 13 for promulgation of temporary or emergency rules. 14 Exhibit 2A is a memo from the 15 Department to the Transportation Commission dated 16 January 3rd, 2014, requesting that the department -- 17 that the commission, rather, open the rulemaking 18 process regarding permanent rules and delegating 19 authority to an administrative hearing officer to 20 conduct this rulemaking hearing. 21 Exhibit 2B is a copy of Transportation 22 Commission Resolution TC-3131 dated January 22nd, 2014, 23 opening the rulemaking process and delegating authority 24 to an administrative hearing officer. 25 Exhibit 3 consists of compliance</p>	<p style="text-align: right;">9</p> <p>1 Exhibit 4A is a printout from the 2 Department of Regulatory Agencies, or DORA, website 3 establishing that the permanent rules were filed on 4 January 22nd, 2014. 5 Exhibit 4B is a notice from DORA dated 6 January 21st, 2014, to the Department confirming that 7 the rules were filed and stating that the public will 8 have until January 30th, 2014, to request a cost 9 benefit analysis. 10 Exhibit 4C is the notice from DORA dated 11 January 21st, 2014, to members of the public who have 12 requested to be notified of rulemaking by CDOT and 13 providing them an opportunity to request a cost benefit 14 analysis. 15 Exhibit 4D is DORA's confirmation that no 16 cost benefit analysis was requested for these rules. 17 Exhibit 5 consists of compliance 18 documents required of the Department. 19 Exhibit 5A is a printout from the CDOT 20 website, establishing that the Department posted the 21 temporary rules on January 22nd, 2014. The proposed 22 amendments to the rules were posted on March 10th, and 23 most recently, as set forth on page 31, on March 24th, 24 2014. 25 Exhibit 5B is a memo to CDOT Central</p>

Proposed Rules re 24-4-103 (4)(a) - March 28, 2014

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1 Files to permanently retain this rulemaking record.
2 Exhibit 5C is the required notice of the
3 rulemaking record posted in the lobby of CDOT
4 headquarters five days prior to the hearing.
5 Exhibit 6 concerns the main substantive
6 communications with key stakeholders in the early draft
7 stages of the rulemaking process.
8 Exhibit 6A includes pages 35 through 48
9 of the exhibit packet. It includes the agenda and
10 summary of rulemaking changes prepared for a meeting
11 between the Department and the Colorado State Patrol on
12 May 22, 2013, to discuss the revisions.
13 Exhibit 6B includes pages 49 through 56,
14 and contains the main documents exchanged with key
15 stakeholders concerning a meeting on September 22nd,
16 2013. This group included: Major Joshua Downing from
17 the Colorado State Patrol; Mr. Greg Fulton,
18 representing the Colorado Motor Carriers Association;
19 Mr. Tim Gablehouse of the firm of Gablehouse and
20 Granberg; Mr. Mark Larson; and Mr. Grier Bailey
21 representing the Colorado Wyoming Petroleum Marketers
22 Association.
23 Exhibit 6C includes pages 57 through 73
24 and contains the documents provided to key stakeholders
25 on October 31st, 2013.

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1 Jumping to Exhibit 12, this is an
2 oversized spreadsheet entitled: Comparative Chart
3 Analyzing Existing CDOT Tunnel Rules, Current Practice
4 and Proposed Rule Changes, which was provided to key
5 stakeholders on October 31st, 2013.
6 Going back to Exhibit 7, this exhibit
7 concerns communications with the representative group.
8 Exhibit 7A includes pages 75 to 76 and is
9 a list of the representative group members indicating
10 who was in attendance at the representative group
11 meeting on December 10th, 2013.
12 Exhibit 7B includes pages 77 through 90,
13 and is comprised of the e-mails sent to and exchanged
14 with representative group members regarding attendance
15 at the meeting at CDOT headquarters on December 10th.
16 Exhibit 7C includes pages 91 through 104,
17 and is the agenda and documents provided to the
18 representative group on December 10th, 2013, including
19 the existing rules included in the exhibits as
20 Exhibit 9, and a draft of the proposed rules.
21 Exhibit 7D includes pages 105 through 110
22 and consists of a spreadsheet showing the comments
23 received at the representative group meeting and the
24 Department's position on the recommended changes.
25 Exhibit 7E includes pages 111 through 122

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1 and consists of three letters. The first letter dated
2 January 7th, 2014, is from the Colorado Wyoming
3 Petroleum Marketers Association executive director
4 Mark Larson, supporting the rationale for temporary
5 rules with the understanding that additional changes
6 could be made to the permanent rules.
7 The second is a letter dated
8 January 10th, 2014, from Colorado Motor Carriers
9 Association President Greg Fulton, providing comments
10 on the permanent rules.
11 The third letter dated January 24th,
12 2014, from Colorado Wyoming Petroleum Marketers
13 Association manager of government affairs Grier Bailey
14 providing further input on the rules.
15 Exhibit 8 concerns notification to the
16 interested parties, including representative group
17 members.
18 Exhibit 8A includes pages 124 through
19 127, and consists of the names and the affiliations of
20 the interested parties.
21 Exhibit 8B includes pages 128 through
22 190, and consists of e-mails exchanged with interested
23 parties. These e-mails reflect an ongoing dialogue
24 with CMCA and CWPMA. These e-mails also establish that
25 members of the interested parties were notified by the

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1 Department on March 7th of the rulemaking hearing and a
2 request for comments by March 17th.
3 The Department received comments from
4 Mr. Greg Fulton, page 157 and pages 182 through 183;
5 Mr. James Higgins, page 165; and Mr. Grier Bailey,
6 page 160 and pages 177 through 181.
7 The Department's e-mail dated March 7th,
8 2014, includes a copy of the adopted temporary rules
9 and a draft of the permanent rules with changes between
10 January 16th, 2014, to the present, as well as a clean
11 copy of the dispersion of the rules.
12 Exhibit 9 at page 181 is a copy of
13 2 CRR 601-8, the rules in place prior to January 16th,
14 2014.
15 Exhibit 10 at page 202 is a copy of the
16 temporary rules adopted on January 16th, 2014.
17 Exhibit 11 at page 216 is the most recent
18 redline copy of the rules. This version includes two
19 changes that have not been reviewed by the key
20 stakeholders or the representative group members.
21 At Mr. Higgins' suggestion, the
22 Department struck the word "device" from Rule 2.03. It
23 also updated the name of the twin tunnels in Rule 4.00
24 to Veterans Memorial Tunnels as a result of
25 Joint Resolution 14-016 recently passed by the General

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1 Assembly.

2 Exhibit 12, as mentioned before, is a

3 comparative chart analyzing the existing CDOT tunnel

4 rules, current practice and proposed rule changes.

5 I would like to enter Exhiblts 1 through

6 12 into the record for consideration. I would also

7 like to ask that if the Department finds any

8 scrivener's errors, it may correct them. And if it

9 does so, it will notify interested parties.

10 MS. REES: Thank you. I'd like to make

11 two notes on the exhibits just to verify, if you don't

12 mind. On Exhibit 6B, I believe the key stakeholders

13 exchanged some documents at the meeting. I just want

14 to verify that date was September 27th, 2013?

15 MS. NEVANS: Yes.

16 MS. REES: One other item. On

17 Exhibit 11, just to be sure that we're on the same

18 page, Exhibit 11 starts at page 217?

19 MS. NEVANS: Yes.

20 MS. REES: Okay.

21 MS. NEVANS: Thank you.

22 MS. REES: Thank you. So Exhibits 1

23 through 12 are now entered into the record.

24 MS. NEVANS: And, Madam Hearing Officer,

25 I would ask at the end of the proceeding that you make

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1 a finding that the Department met all of its statutory

2 requirements with regard to the Administrative

3 Procedure Act.

4 MS. REES: Thank you. Is there anyone

5 else present from the Department of Transportation who

6 is here today to testify?

7 MR. SALAMON: Yes.

8 MS. REES: State your name and your

9 position for the record, please.

10 MR. SALAMON: Good afternoon. My name is

11 Michael Salamon. I am the maintenance superintendent

12 for the Eisenhower Johnson Memorial Tunnels. From this

13 point forward I will refer to these tunnels as the

14 EJMT.

15 The rules governing tunnels on state

16 highways apply to all tunnels within CDOT's

17 jurisdiction. But they primarily address what

18 hazardous material loads may use the EJMT when Loveland

19 Pass is closed and the conditions that apply to their

20 use.

21 The prior rules were adopted in 1986 with

22 minor changes in 2008. Those changes included

23 increasing allowable vertical clearances in the EJMT

24 from 13-foot-7 to 13-foot-11, and removing the

25 Stapleton tunnels from the list of tunnels.

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1 The 2008 edits did not include review and

2 update of federal citations, therefore, the rules in

3 place referred the reader to federal citations that

4 were 27 years old.

5 Additionally, the prior rules were very

6 difficult to understand and contained pages of

7 unnecessary information having to do with the

8 composition of hazardous materials.

9 The Transportation Commission adopted

10 temporary rules on January 16th, 2014, in order to have

11 a set of rules in place with the correct federal

12 citations and a clear set of rules in place.

13 To this end, we elected to include the

14 actual hazardous material placards rather than verbal

15 descriptions so that they would be useful to the

16 Colorado State Patrol, CDOT personnel, the industry,

17 and the traveling public.

18 Following the Commission's adoption of

19 the temporary rules, the Department had an opportunity

20 in January and February of this year to see the effect

21 of the rules in action during several severe winter

22 storms.

23 As a result, the Department met on

24 January 15th with the CMCA board of directors, and

25 later on February 21st with Mr. Fulton and Mr. Bailey

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1 to receive input from their membership on the rules.

2 The Department has made recommended changes to the

3 permanent rules which I will review for the record.

4 Please turn to Exhibit 11, starting on

5 page 217. On page 217 and 218 the revisions are

6 cleanup measures only. On page 219 we added language

7 to Rule 2.02 to clarify that if there are problems at

8 the EJMT, law enforcement will be contacted.

9 On page 219 in rule 2.03 we struck the

10 words "or devices" because it was not referenced in

11 statute and not used anywhere else in the rules. On

12 page 219 in rule 2.06 we included the CDOT director of

13 transportation system's management and operations in

14 the chain of command that will make a decision whether

15 CDOT will exercise its discretion related to the use of

16 the tunnels based on the health, safety, and welfare of

17 the public, or to address traffic mitigation.

18 On page 220 the addition to Rule 3.01 B

19 is cleanup only. It should be noted that Rules 3.03

20 and 3.04 are controlled by federal regulations. In

21 discussing these rules with the Colorado State Patrol,

22 CDOT included Division 1.6 Explosives in Rule 3.04

23 after concluding that neither the Colorado State Patrol

24 nor CDOT had any reason to preclude this placarded

25 material at all times from the use of EJMT.

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1 On page 224 in Rule 1.05 we moved prior
 2 section A, "Off Peak Period Operations," to page 226
 3 for clarity's sake.
 4 On page 225 we added Monday or Friday
 5 respectively to the peak period hours. Also on
 6 page 225 we added the section called special provisions
 7 from New Year's Day to Christmas Day.
 8 This section states: The date preceding
 9 and the date following the holiday may be included in
 10 peak period restrictions. When Christmas day or New
 11 Year's Day fall on a weekday, peak period restrictions
 12 may include Friday and Saturday eastbound.
 13 The goal of this added language in
 14 paragraphs 1 and 3 on page 225 are to provide hazardous
 15 material motor carriers with as much information as
 16 possible regarding peak period restrictions when
 17 Loveland Pass is closed.
 18 At the same time, CDOT recognizes, based
 19 on traffic flow and other factors, that during these
 20 specific days staging may be necessary. These
 21 restrictions will be communicated in realtime updates
 22 using the best available form of communication to motor
 23 carriers.
 24 On page 225, paragraphs C and D
 25 concerning staging requirements were stricken based on

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1 Input from CMCA and CWPMA, and the input they received
 2 from drivers in January and February 2014.
 3 On page 226 we added paragraph 4,
 4 permitting loads carrying placarded quantities of
 5 hazardous materials to stage outside the 300-foot
 6 restriction to the EJMT, and stating that motor
 7 carriers may use Herman's Gulch or Officer's Gulch,
 8 Exit 198, or other rest areas after the available space
 9 outside the EEOC is filled.
 10 On page 226 under B we clarified that
 11 off-peak operations when Loveland Pass is closed,
 12 hazardous materials listed in Rule 3.04 may use the
 13 EJMT seven days a week on the hour, and we added
 14 between the hours of 11:00 p.m. and 6:00 a.m. on the
 15 half hour.
 16 Finally, in Rule 4.00 on page 226 and
 17 227, we made minor cleanup changes and changed the name
 18 of the twin tunnels to the Veterans Memorial Tunnels.
 19 The Department appreciates the time and
 20 effort of the representative group, but
 21 particularly, the Colorado State Patrol, CMCA, CWPMA,
 22 and Tim Gablehouse. As a result of this collaboration,
 23 the rules are a vast improvement over the prior
 24 version.
 25 MS. REES: Thank you, Mr. Salamon. I

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1 have one point of clarification, if I may. On page 226
 2 in the discussion in paragraph 4, we noted the names of
 3 both of the exits, Herman's Gulch and Officer's Gulch,
 4 and I want to verify that Herman's Gulch is Exit 218
 5 for the record.
 6 MR. SALAMON: Yes.
 7 MS. REES: Thank you.
 8 MR. SALAMON: Uh-huh.
 9 MS. REES: Is there anyone else from the
 10 Department that would like to speak today?
 11 May I have a list of the folks who signed
 12 in? Mr. Greg Fulton, you're up. You are the only
 13 person who has asked to speak other than the
 14 Department. So if you'd state your name and
 15 affiliation for the record.
 16 MR. FULTON: First off, Kurt, how much
 17 time do I have, about an hour and a half here?
 18 My name is Greg Fulton. I'm the
 19 president of the Colorado Motor Carriers Association.
 20 We represent over 600 companies that are either
 21 directly involved or affiliated with trucking within
 22 Colorado, of which there's about 60,000 employees in
 23 those companies.
 24 Let me first indicate that, you know,
 25 sort of the rulemaking actually was clearly appropriate

21

1 and prudent. God forbid, I think I was here in the
 2 1980s, whatever, when that was, that one the second one
 3 as well.
 4 I will say that I wanted to commend CDOT
 5 on how professional they handled this, their outreach.
 6 Mary Frances and Mike did a very good job, as well as
 7 Dan and Jason and Angie and all the other folks.
 8 I mean, this was something that probably
 9 went the extra mile to try to find out. And the reward
 10 is that we don't have a lot of people here, which is
 11 good actually. That means we're pretty far along on
 12 this end of it.
 13 Let me note that some of the key points
 14 that we felt were done in here, and we do believe CDOT
 15 really made an effort to try to work through this with
 16 us, the point of the discretion end of it, allowing
 17 actually supervisors to see if there is a window during
 18 peak periods that will allow hazardous material to
 19 travel through there is important.
 20 And secondly, we felt the 11 p.m. to
 21 6 a.m. end of it on those weekend windows is important
 22 on that end of it so that it would allow us actually on
 23 the half hour to actually, we think, safely traverse
 24 us.
 25 We would end up adding as part of our

22

1 comments, and we don't know if it's covered under this,
 2 really, under the rulemaking, and that's why we did not
 3 formally comment on it, is the fact that we would like
 4 to see actually from that 11 p.m. to 6 a.m., during
 5 adverse conditions, which we would call winter, okay,
 6 in Colorado, that it would actually allow on the half
 7 hour to be convoyed. And this is based on safety.
 8 And let us indicate that as our folks
 9 have indicated that traveling over Loveland Pass in
 10 winter actually is considered by our members the most
 11 hazardous corridor that they may travel anywhere in the
 12 country.
 13 The margin of error is very small. The
 14 ability to actually essentially, with the conditions,
 15 visibility, roadway conditions is very difficult. So
 16 they would like us to ask you -- like to ask you to
 17 actually you consider this from an operational
 18 standpoint in the future.
 19 Third, we appreciate the striking of
 20 staging areas. We understand what CDOT was trying to
 21 do. Unfortunately, it was a concept that didn't work
 22 well. We had a lot of folks complaining about it. It
 23 was very difficult. And, you know, CDOT did the
 24 appropriate thing in stopping that effort and striking
 25 that from the rule.

23

1 One of the things I do need to note is
 2 why these rules. And that's the second element that
 3 was important to us, is a very big consideration for
 4 our folks happens to be hours of service.
 5 Hours of service represent how many hours
 6 a driver is allowed to drive during a given day, as
 7 well as specifying the rest breaks that they must take.
 8 The difficulty that we have when the
 9 drivers are being held for any significant period of
 10 time is that the clock doesn't stop for our drivers,
 11 the clock continues. When we reach the end of it, it's
 12 in violation of federal law for us to move.
 13 Essentially, many of the drivers of these
 14 vehicles have what we call day cabs. And they are not
 15 sleepers, where you can sleep in there. Not only that,
 16 but the facilities up near the tunnel or even at the
 17 staging areas aren't set up actually for overnight
 18 parking.
 19 So one of the things we would ask as part
 20 of this is a situation relating to taking into
 21 consideration those holes. We've had to have drivers
 22 actually shuttled out of there, and actually had to
 23 send drivers up there. It's very expensive. It's very
 24 difficult. And essentially, if the truck isn't moving,
 25 business isn't being done, customers are unhappy, lots

24

1 of items.
 2 The thing I'd also mention to you is that
 3 there is a challenge in this corridor is relating to
 4 parking. One of the things people have asked us is why
 5 we just don't park somewhere. There is no parking long
 6 term for trucking.
 7 By about 7 o'clock at night all of the
 8 available parking in the Denver metro area for truck
 9 parking is pretty well gone. The next real location is
 10 Grand Junction, which does not have a great deal of
 11 parking. Within the corridor, there is nowhere else.
 12 You know, we have some emergency parking,
 13 but under the -- in fact, even CDOT's guides, the
 14 emergency parking is only when the corridor is shut
 15 down. And that's a short-term parking end of it. It's
 16 not there for long-term parking.
 17 Third, we might mention the fact is, is
 18 the lack of available services. If we're going to hold
 19 people for any period of time, we need to actually have
 20 services. Not just restrooms, but other items. We
 21 would not hold the general public for several hours and
 22 not have some basic services out there for them. So we
 23 need to consider this in these areas.
 24 We're up near the tunnel, so when those
 25 occurrences happen, that we can take care of those

25

1 drivers. We need to realize that these drivers are
 2 going to be having to get back on the road. We want to
 3 make sure they're not fatigued. And essentially they
 4 have some ability at least actually to have some of the
 5 basic amenities that we all see when we're on the road.
 6 I would note that the one thing I also
 7 really want to commend CDOT about was the items that
 8 happen outside of the rule is, and I think I have to
 9 give Herman and his group and Mary Frances and Mike and
 10 all those folks a lot of credit. The communication
 11 improved dramatically in terms especially in the
 12 HAZMAT.
 13 We brought that up. You know, they
 14 really listened. And they went back -- sometimes
 15 Mary Frances listened too well. And I appreciate it
 16 Mary Frances. She stayed on me until I actually got
 17 back to her, which is good, I appreciate that.
 18 Secondly, the staging areas were removed
 19 in midstream. It wasn't waiting for the hearing or
 20 anything like that that they did that.
 21 Thirdly is, you know, when we end up
 22 trying to understand our drivers coming out to our
 23 meetings, and I will say Mike and Mary Frances came
 24 out, I think Danny couldn't come out, he was sick, or
 25 at least he claimed he was sick on that day.

26

1 But the fact is, is that it had our folks
 2 understand better. They had a lot of questions, a lot
 3 of the uncertainty in their mind in terms of what the
 4 purpose was and all that. The fact that they did
 5 follow up and all that meant an awful lot to our folks
 6 and that.

7 The fact that I will say that we do end
 8 up an overwhelming concept in our eyes with one of
 9 those items outside the rules. And that is the
 10 maintenance on Loveland Pass.

11 The fact is, is that if we're going to be
 12 required to be on Loveland Pass, you know, that the
 13 point is, is that we need to end up having that open
 14 and available and in a safe condition.

15 Unfortunately, we have had a number of
 16 long closures this year. And as we've noted, that has
 17 an effect not only on our companies, but the businesses
 18 that they supply, as well as affecting the safety of
 19 the drivers, actually.

20 You know, driving over the condition –
 21 you know, those roadways actually or having to sit for
 22 long periods of time tend to actually drag, especially
 23 if you're in a day cab, it adversely affects the
 24 fatigue of those drives. We would like to ask that
 25 CDOT make an effort to increase maintenance-free

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1 sources on the pass.

2 Secondly, as we noted earlier, we would
 3 like to end up having during the winter and consider
 4 convoying on the half hour, from the 11:00 p.m. to
 5 6:00 a.m. window.

6 And our reasoning once again is we think
 7 we would see some travel shift to those periods of
 8 time. We also realize from a safety end of it, from a
 9 resource end of it, for even CDOT having to have people
 10 up there maintaining the pass frankly solely so we
 11 could be over the pass at that time, because there are
 12 no other people that are foolish enough to drive over
 13 there in the middle of the night. So those are the
 14 items pretty much on our end of it.

15 We would just like once again want to
 16 express – like I said, this is probably going to be
 17 one of the shortest items for us for rulemaking
 18 comments. We didn't submit any written comments. We
 19 were very happy with the rules.

20 There were certain things that we also
 21 realize that we will probably be revisiting these rules
 22 within two years with the fire suppression and some of
 23 the other items.

24 We would be remiss if I didn't tell you
 25 that we feel the real solution for our carriers from

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1 the safety and operations end of it is to be able to
 2 have some access through the tunnel so that we can
 3 actually more so traverse actually this corridor in a
 4 safer and easier manner than we are today, actually,
 5 which is pushing us over the pass.

6 I'm happy to answer any questions if
 7 anyone has any. I don't know if that's appropriate.
 8 But I appreciate once again the time. And, gosh, this
 9 has got to be the shortest rulemaking ever actually on
 10 HAZMAT, which is good. Thank you.

11 MS. REES: Thank you. Would anyone from
 12 CDOT like to respond to Mr. Fulton's comments today?

13 MS. NEVANS: Can we have just a minute to
 14 discuss?

15 MS. REES: Off the record?
 16 MS. NEVANS: Off the record.

17 MS. REES: We'll pause the hearing for a
 18 few minutes.

19 (Pause in the proceedings.)

20 MS. REES: Okay. It's 2:45, and we're
 21 going to resume the hearing.

22 We have someone from CDOT to speak.
 23 Would you please give us your name and your position.

24 MR. STOCKINGER: My name is
 25 Herman Stockinger. I'm the director of the Office of

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1 Policy and Government Relations for CDOT.

2 Greg, thanks for being here. Thanks for
 3 your comments. A lot of them were, I think, a little
 4 bit outside the context of the rule.

5 I think many of them we would agree with.
 6 We would love to see better parking along I-70 and
 7 things like that. Those are definitely things we want
 8 to work on together as we move forward.

9 In the context of the rule, and I tried
 10 to write down and keep track of the things that you
 11 mentioned, the one that seemed most pertinent to the
 12 rule was the request to between 11:00 p.m. and
 13 6:00 a.m. during adverse weather conditions, which I
 14 think was roughly defined as winter, that the HAZMAT
 15 vehicles be allowed to go through the tunnel even if
 16 Loveland Pass was opened.

17 And I think, if I understand that
 18 correctly, I think what that means is it's a – that's
 19 a HAZMAT routing question. That's a different set of
 20 rules that's governed by the Colorado State Patrol. I
 21 think it's something we can address down the road, as
 22 you talked about some of the other things that are
 23 going to be on.

24 But in the context of this rule, it's not
 25 the appropriate place to tackle it because I think it

30

1 would be a HAZMAT routing change, and that's not
 2 something that we can do in the context of this rule.
 3 MS. REES: Any other comments?
 4 MR. STOCKINGER: That's it.
 5 MS. REES: Mr. Fulton?
 6 MR. FULTON: That's fine. I appreciate
 7 it.
 8 MS. REES: Anyone else from the
 9 Department?
 10 Okay, then. I'm going to admit the
 11 hearing attendance record as Exhibit 13. I'll also
 12 include in the record a copy of the transcript from
 13 this hearing.
 14 Does anyone have any objections to any of
 15 the exhibits that have been presented being in the
 16 record today and being in the record later?
 17 Does anyone else have any comments to
 18 make at this time? I will ask a representative from
 19 the attorney general's office to make any comments
 20 about their rules or procedures today.
 21 MR. CHASE: Good afternoon. My name is
 22 Jordan Chase. I'm an assistant attorney general with
 23 the Colorado attorney general's office.
 24 It is my opinion that the rulemaking
 25 procedure carried out by the Department, including the

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1 hearing today, was held in accordance with the
 2 Administrative Procedure Act. I have no further
 3 comments.
 4 MS. REES: Thank you. If there are no
 5 other comments, I will make my findings that the
 6 Transportation Commission properly delegated the
 7 authority to me to conduct this hearing; that the
 8 Department met the state Administrative Procedure Act;
 9 and that this rulemaking hearing has been conducted in
 10 conformance with the State Administrative Procedure
 11 Act.
 12 I find that the record does support
 13 amendment of the rules governing tunnels on state
 14 highways. I will recommend to the Transportation
 15 Commission that the amendment should be adopted if the
 16 Commission so chooses.
 17 I will grant Ms. Nevans' request to
 18 correct any scrivener's errors prior to submitting the
 19 rules to the Transportation Commission for its
 20 consideration. Finally, I find that the public did
 21 have an opportunity to comment.
 22 And is there anything else that we need
 23 to include in the hearing today? Just one last check.
 24 If there's nothing else, I will prepare a record for
 25 the Transportation Commission.

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1 The record will be available for
 2 inspection by the public and kept on file with the
 3 permanent rulemaking record. Any questions? The oral
 4 testimony portion of this rulemaking procedure is now
 5 closed. The hearing is adjourned. Thank you everyone
 6 for coming.
 7 (WHEREUPON, the hearing was concluded at
 8 2:49 p.m.)
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1 CERTIFICATE
 2
 3 STATE OF COLORADO)
 COUNTY OF DENVER) ss.
 4
 5 I, Teresa Hart, a Registered Professional
 6 Reporter and Notary Public for the State of Colorado,
 7 do hereby certify that the above-entitled hearing was
 8 taken in shorthand by me and was reduced to typewritten
 9 form by computer-aided transcription; that the
 10 foregoing is a true transcript of the proceedings had;
 11 that I am not attorney, nor counsel, nor in any way
 12 connected with any attorney or counsel for any of the
 13 parties to said action or otherwise interested in its
 14 event.
 15 IN WITNESS WHEREOF, I have hereunto affixed my
 16 hand and notarial seal this April 14, 2014.
 17 My commission expires: January 15, 2016.
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TERESA HART
 Registered Professional Reporter
 and Notary Public
 CALDERWOOD-MACKELPRANG, INC.

DEPARTMENT OF TRANSPORTATION

Transportation Commission

Rules Governing the Use of Tunnels on Colorado State Highways

2 CCR 601-8

Statement of Basis and Purpose and Statutory Authority

The Transportation Commission has revised the Rules Governing the Use of ~~the T~~tunnels on State Highways in order to update state and federal statutory references, clarify and simplify language, and provide an easily understandable guide for use of the Ttunnels on state highways and specifically the Eisenhower-Johnson Memorial Tunnels. Section 42-4-106(7)(a), C.R.S., provides the ~~authority to the~~Transportation Commission with authority to adopt rules concerning the operation of any motor vehicle and commercial vehicle in any Ttunnel which is a part of the state highway system. Pursuant to § 42-4-106(7)(b), C.R.S., the Department may prohibit or regulate the operation of any motor vehicle and commercial vehicle which transports any article, deemed to be dangerous, in any Ttunnel which is part of the state highway system. Further, § 42-20-301(3), C.R.S., provides authority to the Transportation Commission to regulate hours of operation of the Eisenhower-Johnson Memorial Tunnels on Interstate 70.

These rules shall be interpreted consistently with the requirements of Title 49 CFR parts 100 to 177. Additionally, these rules should be read together with 8 CCR 1507-25 “Rules and Regulations Concerning the Permitting, Routing & Transportation of Hazardous and Nuclear Materials and the Intrastate Transportation of Agricultural Products in the State of Colorado.” These rules are promulgated by the Department of Public Safety, Chief of the Colorado State Patrol pursuant to § 42-20-108 (1) and (2), C.R.S. These rules also regulate the safe transportation of nuclear materials by motor vehicle within the State of Colorado pursuant to §§ 42-20-403, 504 and 508, C.R.S., and exempt agricultural products from the rules pursuant to § 42-20-108.5, C.R.S.

The transport of hazardous materials is strictly governed by federal and state regulations and CDOT must adhere to these legal requirements. CDOT’s ~~proposed R~~rules 3.03 and 3.04 are based on federal regulations which CDOT has no authority to modify.

Applicability. These rules apply to all Commercial Vehicles, Motor Vehicles and Persons utilizing the Ttunnels under the Colorado Department of Transportation’s jurisdiction.

1.00 Definitions

1.01 “Commercial Vehicle” as set forth in § 42-4-235, C.R.S., shall mean (I) any self-propelled or towed vehicle bearing an apportioned plate or having a manufacturer's gross vehicle weight rating or gross combination rating of ten thousand one pounds or more, which vehicle is used in commerce on the public highways of this state or is designed to transport sixteen or more

passengers, including the driver, unless such vehicle is a school bus regulated pursuant to section 42-4-1904, C.R.S., or any vehicle that does not have a gross vehicle weight rating of twenty-six thousand one or more pounds and that is owned or operated by a school district so long as such school district does not receive remuneration for the use of such vehicle, not including reimbursement for the use of such vehicle; (II) any motor vehicle designed or equipped to transport other motor vehicles from place to place by means of winches, cables, pulleys, or other equipment for towing, pulling, or lifting, when such motor vehicle is used in commerce on the public highways of this state; and (III) a motor vehicle that is used on the public highways and transports materials determined by the secretary of transportation to be hazardous under 49 U.S.C. Sec. 5103 in such quantities as to require placarding under 49 CFR parts 172 and 173.

1.02 “Department” or “CDOT” shall mean the Colorado Department of Transportation established pursuant to § 43-1-103, C.R.S.

1.03 "Enforcement Official" shall mean, and is limited to, a peace officer who is an officer of the Colorado State Patrol as described in §§ 16-2.5-101 and 114, C.R.S., a certified peace officer who is a certified port of entry officer as described in §§ 16-2.5-101 and 115, C.R.S., a peace officer who is an investigating official of the transportation section of the public utilities commission as described in §§ 16-2.5-101 and 143, C.R.S., or any other peace officer as described in section § 16-2.5-101, C.R.S. [§ 42-20-103 (2), C.R.S.]

1.04 “Hazardous Materials” (also known as “Hazmat”) shall mean those materials listed in Tables 1 and 2 of ~~Title 49, Code of Federal Regulations, 172.504~~ (49 CFR 172.504), excluding highway route controlled quantities of radioactive materials as defined in 49 CFR 173.403-1), excluding ores, the products from mining, milling, smelting, and similar processing of ores, and the wastes and tailing therefrom, and excluding special fireworks when the aggregate amount of flash powder does not exceed fifty pounds. [§ 42-20-103 (3), C.R.S.]

1.05 “Motor vehicle” shall mean any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term does not include low-power scooters, wheelchairs, or vehicles moved solely by human power.

1.06 "Person" shall mean an individual, a corporation, a government or governmental subdivision or agency, a partnership, an association, or any other legal entity; except that separate divisions of the same corporation may, at their request, be treated as separate persons. [§ 42-20-103 (6), C.R.S.]

1.07 “Staging” shall mean the parking of a Motor Vehicle or Commercial Vehicle at a specific location to facilitate its safe passage through the Eisenhower-Johnson Memorial Tunnels according to the specific timing requirements of ~~Rule 3.045~~.

1.08 “State Highway” shall consist of the federal-aid primary roads, the federal-aid secondary roads, and the interstate system, including extensions thereof within urban areas. [§ 43-2-201(1), C.R.S.]

1.09 “Tunnel” shall mean enclosed roadways with vehicle access that is restricted to portals regardless of type of structure or method of construction. Tunnels do not include highway bridges, railroad bridges or other bridges over a roadway. Tunnels are structures that require special design considerations that may include lighting, ventilation, fire protection systems, and emergency egress capacity based on the owners’ determination.

2.00 General Requirements for Use of All CDOT Tunnels

2.01 These Rules apply to all facilities identified below in Rule 4.00.

2.02 Any ~~p~~Person operating a Motor Vehicle or Commercial Vehicle in any Tunnel on the State Highway System shall comply with all governing state and federal law and regulations. Any Motor Vehicle, Commercial Vehicle or Person failing to abide by all applicable law and regulations will be referred to law ~~e~~Enforcement ~~e~~Officials. No Person shall obstruct, harass, impair, attempt to influence, or otherwise interrupt the official government functions of the CDOT Tunnel staff. In the event such actions should occur the appropriate law enforcement agency will be contacted immediately.

2.03 CDOT, including Tunnel ~~P~~ersonnel, may prohibit any Person, Motor Vehicle or Commercial Vehicle or device, pursuant to § 42-4-106 (7), C.R.S., from using a Tunnel when the health or safety of the public warrants such action.

2.04 Pedestrians shall not be permitted in Tunnels without the express permission of the Department.

2.05 Electrical assisted bicycles, electric personal assistive mobility devices, low-power scooters, low-speed electric vehicles, motor driven cycles, motorcycles, or motor scooters, with a motor which produces five (5) horsepower or less, and bicycles or other means of conveyance are prohibited from using any Tunnel unless a special use permit has been granted by the Colorado State Patrol. [§ 42-1-102, (28.5) (28.7) (48.5)(a); and (48.6), C.R.S.]

2.06 The Department shall be authorized to schedule any closure of a segment of the State Highway system or at the request of the Colorado State Patrol in order to provide for the safety of the public and including but not limited to maintenance operations, avalanche control, rock fall mitigation, and roadway construction. The CDOT Maintenance Superintendent or his/her designee, in consultation with the CDOT Regional Transportation Director and the CDOT Director of Transportation Systems Management & Operations., may exercise discretion related to the use of CDOT ~~t~~Tunnels as specified in these rules to address traffic mitigation or to provide for the health, safety and welfare of the public.

3.00 Requirements Specific to the Eisenhower-Johnson Memorial Tunnels (EJMT)

3.01 CDOT Personnel at the EJMT shall have the authority to:

A. Direct Motor Vehicles or Commercial Vehicles to staging/parking areas and enlist the assistance of an Enforcement Official to review shipping papers or their equivalent to protect the health, safety and welfare of the public.

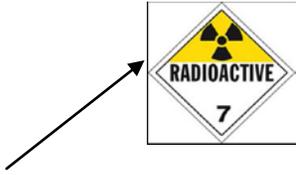
B. Establish and post restricted access requirements (e.g., speed limit reductions, convoy escort operations, vehicle convoys, and Tunnel closures) granting or denying highway and/or Eisenhower-Johnson Memorial Tunnels (EJMT) access, when access would present a hazard to the Tunnels or to persons using the Tunnels.

3.02 All Commercial Vehicles, Motor Vehicles and Persons transporting placarded quantities of hazardous materials are required to use Loveland Pass (US 6) when the Pass is open.

3.03 Commercial Vehicles, Motor Vehicles and Persons are prohibited at all times from transporting the following placarded hazardous materials through the EJMT, and may not park in the parking lots outside of EJMT.

PROHIBITED AT ALL TIMES FROM EJMT	
	<p>Division 1.1 Placard Explosives With a Mass Explosion Hazard</p>
	<p>Division 1.2 Placard Explosives With a Projection Hazard</p>
	<p>Division 1.3 Placard Explosives With Predominantly a Fire Hazard</p>
	<p>Division 1.4 Placard Explosives With No Significant Blast Hazard</p>

PROHIBITED AT ALL TIMES FROM EJMT

	<p align="center">Division 1.5 Placard Very Insensitive Explosives: Blasting Agents</p>
	<p align="center">Division 4.3 Placard Dangerous When Wet Materials</p>
	<p align="center">Division 5.2 Placard Organic Peroxides</p>
	<p align="center">Division 2.3 Inhalation Hazard</p>
	<p align="center">Division 6.1 Placard Poisonous Materials (inhalation hazards only)</p>
 <p>The HRCQ placard has the square background behind the point on point placard. Compare Class 7 Placard Radioactive Materials under Rule 3.04.</p>	<p align="center">Highway Route-Controlled Quantity (HRCQ)</p>

3.04 Materials Permitted to Use EJMT when Loveland Pass (US 6) is closed. ~~3.04.1~~ Subject to the requirements of these rules and all state and federal laws, Commercial Vehicles, Motor Vehicles and Persons may transport the following hazardous materials through the EJMT only when Loveland Pass (US 6) is closed.

PERMITTED TO USE EJMT WHEN LOVELAND PASS (US 6) IS CLOSED SUBJECT TO RESTRICTION	
	Division 1.6 Placard Extremely Insensitive Detonating Substances
 <p>This is a point-on-point placard as distinguished from HRCQ placard which has a square background. HRCQ is prohibited at all times.</p>	Class 7 Placard Radioactive Materials
	Division 2.1 Placard Flammable Gases
 	Division 2.2 Placards Non-Flammable, Non Poisonous Gases
 	Class 3 Placards Flammable Liquids

PERMITTED TO USE EJMT WHEN LOVELAND PASS (US 6) IS CLOSED

SUBJECT TO RESTRICTION

	<p>Class 3 Placards Combustible Liquids</p>
	<p>Division 4.1 Placard Flammable Solids</p>
	<p>Division 4.2 Placard Spontaneously Combustible Materials</p>
	<p>Division 5.1 Placard Oxidizing Substances</p>
	<p>Division 6.1 Placards Poisonous or Toxic Materials (excludes inhalation hazards)</p>
	<p>Division 6.2 Label Infectious Substances</p>

PERMITTED TO USE EJMT WHEN LOVELAND PASS (US 6) IS CLOSED SUBJECT TO RESTRICTION	
	Class 8 Placard Corrosive Substances
	Class 9 Placard Miscellaneous Hazardous Materials
	Dangerous Placard Dangerous Hazardous Materials
	ORM-D Label Other Regulated Materials

3.04.25 Restrictions on Placarded Loads Carrying Hazardous Materials when Loveland Pass (US 6) is Closed.

~~A. Off-Peak Period Operations. Once authorization and specific direction is given by CDOT personnel, Motor Vehicles, Commercial Vehicles and Persons transporting placarded quantities of hazardous materials under this rule may use the EJMT seven days a week on the hour.~~

~~BA. Peak Period Operations. 1. Peak Periods are those times of increased vehicle traffic counts determined by the Department which to warrant restrictions on the transporting of placarded quantities of permitted hazardous materials.~~

21. No vehicles containing placarded quantities of hazardous materials are allowed to use EJMT during the following time frames:

Westbound

Saturday and Sunday mornings, from 7:01 a.m. to 9:59 a.m.

———National Holidays when they fall on a Monday or Friday from 7:01 a.m. to 9:59 a.m.

Eastbound

Sunday afternoons, from 2:01 p.m. to 6:59 p.m.

National Holidays when they fall on a Mondays or Friday, from 2:01 p.m. to 6:59 p.m.

Special Provisions for New Years Day and Christmas Day.

The day preceding and the day following the holiday may be included in the Peak Period restrictions.

When Christmas Day or New Years' Day fall on a weekday, Peak Period restrictions may include Friday and Saturday eastbound.

2. National Holidays referenced below for purposes of these Rules are: New Year's Day (January 1); Martin Luther King, Jr.'s Day (3rd Monday of January); President's Day (3rd Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (1st Monday in September); ~~Columbus Day (2nd Monday in October); Veteran's Day (November 11);~~ Thanksgiving Day (4th Thursday in November) and Christmas Day (December 25).

3. CDOT will provide real-time information specific to Commercial Motor Vehicles including placarded loads carrying Hazardous Materials, on Interstate 70 with details including road conditions, Loveland Pass closures, Hazmat holds at EJMT, and forecasts of Peak Period travel delays. When feasible, CDOT may route placarded quantities of hazardous materials through the EJMT during significant gaps in traffic when Loveland Pass (US 6) is closed during Peak Period restrictions.

~~C. During Peak Periods, Motor Vehicles, Commercial Vehicles and Persons intending to transport authorized hazardous materials through the EJMT will be required to Stage in the designated areas described below. Such vehicles may not park in the lots at the EJMT entrances. After the Peak Period has expired, staged vehicles will be escorted from the staging areas to the EJMT by a CDOT representative.~~

~~D. The Peak Period Staging areas are:~~

~~———Westbound: the Herman Gulch interchange (Exit 218)~~

~~Eastbound: the Vail Pass Rest Area (exit 189); or along the ramps of
Officers Gulch interchange (exit 198);~~

4. Loads carrying Placarded quantities of Hazardous Materials will be allowed to Stage outside of the 300 foot restriction to the EJMT and at least 5 feet from the State Highway in designated parking spaces. After these spaces are filled, Persons, Motor Carriers and Commercial Vehicles may use Herman's Gulch (Exit 218), Officer's Gulch (Exit 198) or other rest areas to Stage pending notification from CDOT Tunnel personnel that access is permitted.

B. Off-Peak Period Operations when Loveland Pass (US 6) is Closed. Once authorization and specific direction is given by CDOT personnel, Motor Vehicles, Commercial Vehicles and Persons transporting placarded quantities of Hazardous Materials under this Rule may use the EJMT ~~seven days a week on the hour;~~

1. Seven days a week on the hour; and

2. Between the hours of 11 p.m. and 6 a.m. on the half hour.

3.0~~56~~ All Motor Vehicles, Commercial Vehicles and Persons transporting authorized Hazardous Materials through the EJMT shall:

Travel at speeds no faster than 30 miles per hour;

Not pass other vehicles; and

Maintain a minimum distance of 800 feet from other vehicles.

3.0~~67~~ Hazmat Routes

3.0~~567~~.1 The EJMT is not located on a designated hazardous materials route section. The designated hazardous materials routes within the State of Colorado may be found at <http://dtdapps.coloradodot.info/staticdata/Downloads/StatewideMaps/HazMatMap.pdf>. See also <http://www.coloradodot.info/business/hazmat-routing>.

4.00 CDOT Tunnels and Snow Sheds

Structure No.	Tunnel Name & Location	Description	Route	Mile Post	NHS (Y/N)
H-03-BT	Interstate 70, MP 50.38, Beavertail Tunnels	Bore 13.75 miles east of Grand Junction in DeBeque Canyon	070A	50.38	Y
H-03-BU	Interstate 70, MP 50.38, Beavertail Tunnels	Bore 13.75 miles east of Grand Junction in DeBeque Canyon	070A	50.37	Y

Structure No.	Tunnel Name & Location	Description	Route	Mile Post	NHS (Y/N)
F-07-Q	Interstate 70, MP 117.83, No Name € Tunnels	Bores 1.5 miles East of SH 82-Grand Ave., Glenwood Springs	070A	117.81	Y
F-07-R	Interstate 70, MP 117.83, No Name € Tunnels	Bores 1.5 miles East of SH 82-Grand Ave., Glenwood Springs	070A	117.8	Y
F-08-AP	Interstate 70, MP 125.7, Hanging Lake Tunnels	Glenwood Canyon, 8.1 miles east of Glenwood Springs	070A	125.23	Y
F-08-AQ	Interstate 70, MP 125.7, Hanging Lake Tunnels	Bores, Glenwood Canyon, 8.1 miles east of Glenwood Springs	070A	125.24	Y
F-08-AT	Interstate 70, MP 127.12 Reverse Curve	One bore West B bound only, 10.5 miles east of Glenwood Springs	070A	127.09	Y
F-13-X	Interstate 70, MP 213, Eisenhower/Johnson Memorial € Tunnels	Bores, under the Continental Divide, 60 miles west of Denver	070A	213.61	Y
F-13-Y	Interstate 70, MP 213, Eisenhower/Johnson Memorial T Tunnels	Bores, under the Continental Divide, 60 miles west of Denver	070A	213.61	Y
F-15-BN	Interstate 70, MP 242, Twin € Tunnels	One bore each € Tunnel, within the city limits of Idaho Springs (2.6 miles east of junction with SH 103)	070A	242.11	Y
F-15-BO	Interstate 70, MP 242, Twin tunnels	One bore each € Tunnel, within the city limits of Idaho Springs (2.6 miles east of junction with SH 103)	070A	242.11	Y
F-17-FW	Interstate 225 MP 0.02 at Junction . with Interstate-25 SB MP 200	Cut and cover Structure, Junction I-225 s Southbound only with I Interstate 25 Southbound only	225A		
F-15-AW	US 6 - MP259 to 270,	One bore each € Tunnel, Five € Tunnels in Clear Creek Canyon beginning 4 miles west of Golden for 15 miles	006G	264.76	N
F-15-AX	US 6 - MP259 to 270,	One bore each € Tunnel, Five € Tunnels in Clear Creek Canyon beginning 4 miles west of Golden for 15 miles	006G	265.13	N

Structure No.	Tunnel Name & Location	Description	Route	Mile Post	NHS (Y/N)
F-15-AY	US 6 - MP259 to 270,	One bore each € Tunnel, Five € Tunnels in Clear Creek Canyon beginning 4 miles west of Golden for 15 miles	006G	270.37	N
F-15-X	US 6 - MP259 to 270,	One bore each € Tunnel, Five € Tunnels in Clear Creek Canyon beginning 4 miles west of Golden for 15 miles	006G	258.94	N
F-15-Y	US 6 - MP259 to 270,	One bore each € Tunnel, Five € Tunnels in Clear Creek Canyon beginning 4 miles west of Golden for 15 miles	006G	259.46	N
N-09-F	US160 - MP 174.8 Wolf Creek Pass Tunnel	One bore, 31.15 miles east of Pagosa Springs (located on west side of Wolf Creek Pass)	160A	174.19	Y
L-06-P	US 550 - MP 90.86 Bear Creek Tunnel	One bore, 1.2 miles south of Ouray in Ouray county	550B	90.84	Y
B-15-E	SH 14 - MP 107.2	One bore, 27.48 miles west of Fort Collins in Roosevelt National Forest	014B	107.23	N
D-15-AS	SH 119 - MP 37.6	One bore, in Boulder Canyon, 4.2 miles west of Jet Junction with SH 7 & SH 93	119A	37.69	N
M-06-AG	US 550 – MP 88.16 East Riverside Snow Shed	Snow Shed	550B	88.16	Y
O-09-K	US 160 – MP 168.47 Alberta Snow Shed	Snow Shed	160A	168.47	Y

5.00 Materials Incorporated by Reference

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DRAFT

DEPARTMENT OF TRANSPORTATION

Transportation Commission

Rules Governing the Use of Tunnels on Colorado State Highways

2 CCR 601-8

Statement of Basis and Purpose and Statutory Authority

The Transportation Commission has revised the Rules Governing the Use of tunnels on State Highways in order to update state and federal statutory references, clarify and simplify language, and provide an easily understandable guide for use of the tunnels on state highways and specifically the Eisenhower-Johnson Memorial Tunnels. Section 42-4-106(7)(a), C.R.S., provides the Transportation Commission with authority to adopt rules concerning the operation of any motor vehicle and commercial vehicle in any tunnel which is a part of the state highway system. Pursuant to § 42-4-106(7)(b), C.R.S., the Department may prohibit or regulate the operation of any motor vehicle and commercial vehicle which transports any article, deemed to be dangerous, in any tunnel which is part of the state highway system. Further, § 42-20-301(3), C.R.S., provides authority to the Transportation Commission to regulate hours of operation of the Eisenhower-Johnson Memorial Tunnels on Interstate 70.

These rules shall be interpreted consistently with the requirements of Title 49 CFR parts 100 to 177. Additionally, these rules should be read together with 8 CCR 1507-25 “Rules and Regulations Concerning the Permitting, Routing & Transportation of Hazardous and Nuclear Materials and the Intrastate Transportation of Agricultural Products in the State of Colorado.” These rules are promulgated by the Department of Public Safety, Chief of the Colorado State Patrol pursuant to § 42-20-108 (1) and (2), C.R.S. These rules also regulate the safe transportation of nuclear materials by motor vehicle within the State of Colorado pursuant to §§ 42-20-403, 504 and 508, C.R.S., and exempt agricultural products from the rules pursuant to § 42-20-108.5, C.R.S.

The transport of hazardous materials is strictly governed by federal and state regulations and CDOT must adhere to these legal requirements. CDOT’s Rules 3.03 and 3.04 are based on federal regulations which CDOT has no authority to modify.

Applicability. These rules apply to all Commercial Vehicles, Motor Vehicles and Persons utilizing the tunnels under the Colorado Department of Transportation’s jurisdiction.

1.00 Definitions

1.01 “Commercial Vehicle” as set forth in § 42-4-235, C.R.S., shall mean (I) any self-propelled or towed vehicle bearing an apportioned plate or having a manufacturer's gross vehicle weight rating or gross combination rating of ten thousand one pounds or more, which vehicle is used in commerce on the public highways of this state or is designed to transport sixteen or more

passengers, including the driver, unless such vehicle is a school bus regulated pursuant to section 42-4-1904, C.R.S., or any vehicle that does not have a gross vehicle weight rating of twenty-six thousand one or more pounds and that is owned or operated by a school district so long as such school district does not receive remuneration for the use of such vehicle, not including reimbursement for the use of such vehicle; (II) any motor vehicle designed or equipped to transport other motor vehicles from place to place by means of winches, cables, pulleys, or other equipment for towing, pulling, or lifting, when such motor vehicle is used in commerce on the public highways of this state; and (III) a motor vehicle that is used on the public highways and transports materials determined by the secretary of transportation to be hazardous under 49 U.S.C. Sec. 5103 in such quantities as to require placarding under 49 CFR parts 172 and 173.

1.02 “Department” or “CDOT” shall mean the Colorado Department of Transportation established pursuant to § 43-1-103, C.R.S.

1.03 "Enforcement Official" shall mean, and is limited to, a peace officer who is an officer of the Colorado State Patrol as described in §§ 16-2.5-101 and 114, C.R.S., a certified peace officer who is a certified port of entry officer as described in §§ 16-2.5-101 and 115, C.R.S., a peace officer who is an investigating official of the transportation section of the public utilities commission as described in §§ 16-2.5-101 and 143, C.R.S., or any other peace officer as described in section § 16-2.5-101, C.R.S. [§ 42-20-103 (2), C.R.S.]

1.04 “Hazardous Materials” (also known as “Hazmat”) shall mean those materials listed in Tables 1 and 2 of 49 CFR 172.504, excluding highway route controlled quantities of radioactive materials as defined in 49 CFR 173.403(1), excluding ores, the products from mining, milling, smelting, and similar processing of ores, and the wastes and tailing therefrom, and excluding special fireworks when the aggregate amount of flash powder does not exceed fifty pounds. [§ 42-20-103 (3), C.R.S.]

1.05 “Motor vehicle” shall mean any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term does not include low-power scooters, wheelchairs, or vehicles moved solely by human power.

1.06 "Person" shall mean an individual, a corporation, a government or governmental subdivision or agency, a partnership, an association, or any other legal entity; except that separate divisions of the same corporation may, at their request, be treated as separate persons. [§ 42-20-103 (6), C.R.S.]

1.07 “Staging” shall mean the parking of a Motor Vehicle or Commercial Vehicle at a specific location to facilitate its safe passage through the Eisenhower-Johnson Memorial Tunnels according to the specific timing requirements of Rule 3.05.

1.08 “State Highway” shall consist of the federal-aid primary roads, the federal-aid secondary roads, and the interstate system, including extensions thereof within urban areas. [§ 43-2-201(1), C.R.S.]

1.09 “Tunnel” shall mean enclosed roadways with vehicle access that is restricted to portals regardless of type of structure or method of construction. Tunnels do not include highway bridges, railroad bridges or other bridges over a roadway. Tunnels are structures that require special design considerations that may include lighting, ventilation, fire protection systems, and emergency egress capacity based on the owners’ determination.

2.00 General Requirements for Use of All CDOT Tunnels

2.01 These Rules apply to all facilities identified below in Rule 4.00.

2.02 Any Person operating a Motor Vehicle or Commercial Vehicle in any Tunnel on the State Highway System shall comply with all governing state and federal law and regulations. Any Motor Vehicle, Commercial Vehicle or Person failing to abide by all applicable law and regulations will be referred to law Enforcement Officials. No Person shall obstruct, harass, impair, attempt to influence, or otherwise interrupt the official government functions of the CDOT Tunnel staff. In the event such actions should occur the appropriate law enforcement agency will be contacted immediately.

2.03 CDOT, including Tunnel personnel, may prohibit any Person, Motor Vehicle or Commercial Vehicle or device, pursuant to § 42-4-106 (7), C.R.S., from using a Tunnel when the health or safety of the public warrants such action.

2.04 Pedestrians shall not be permitted in Tunnels without the express permission of the Department.

2.05 Electrical assisted bicycles, electric personal assistive mobility devices, low-power scooters, low-speed electric vehicles, motor driven cycles, motorcycles, or motor scooters, with a motor which produces five (5) horsepower or less, and bicycles or other means of conveyance are prohibited from using any Tunnel unless a special use permit has been granted by the Colorado State Patrol. [§ 42-1-102, (28.5) (28.7) (48.5)(a) and (48.6), C.R.S.]

2.06 The Department shall be authorized to schedule any closure of a segment of the State Highway system or at the request of the Colorado State Patrol in order to provide for the safety of the public and including but not limited to maintenance operations, avalanche control, rock fall mitigation, and roadway construction. The CDOT Maintenance Superintendent or his/her designee, in consultation with the CDOT Regional Transportation Director and the CDOT Director of Transportation Systems Management & Operations,, may exercise discretion related to the use of CDOT Tunnels as specified in these rules to address traffic mitigation or to provide for the health, safety and welfare of the public.

3.00 Requirements Specific to the Eisenhower-Johnson Memorial Tunnels (EJMT)

3.01 CDOT Personnel at the EJMT shall have the authority to:

A. Direct Motor Vehicles or Commercial Vehicles to staging/parking areas and enlist the assistance of an Enforcement Official to review shipping papers or their equivalent to protect the health, safety and welfare of the public.

B. Establish and post restricted access requirements (e.g., speed limit reductions, convoy escort operations, vehicle convoys, and Tunnel closures) granting or denying highway and/or Eisenhower-Johnson Memorial Tunnels (EJMT) access, when access would present a hazard to the Tunnels or to persons using the Tunnels.

3.02 All Commercial Vehicles, Motor Vehicles and Persons transporting placarded quantities of hazardous materials are required to use Loveland Pass (US 6) when the Pass is open.

3.03 Commercial Vehicles, Motor Vehicles and Persons are prohibited at all times from transporting the following placarded hazardous materials through the EJMT, and may not park in the parking lots outside of EJMT.

PROHIBITED AT ALL TIMES FROM EJMT	
	<p>Division 1.1 Placard Explosives With a Mass Explosion Hazard</p>
	<p>Division 1.2 Placard Explosives With a Projection Hazard</p>
	<p>Division 1.3 Placard Explosives With Predominantly a Fire Hazard</p>
	<p>Division 1.4 Placard Explosives With No Significant Blast Hazard</p>

PROHIBITED AT ALL TIMES FROM EJMT

	<p>Division 1.5 Placard Very Insensitive Explosives: Blasting Agents</p>
	<p>Division 4.3 Placard Dangerous When Wet Materials</p>
	<p>Division 5.2 Placard Organic Peroxides</p>
	<p>Division 2.3 Inhalation Hazard</p>
	<p>Division 6.1 Placard Poisonous Materials (inhalation hazards only)</p>
<p data-bbox="220 1654 818 1797"> The HRCQ placard has the square background behind the point on point placard. Compare Class 7 Placard Radioactive Materials under Rule 3.04. </p> <div style="text-align: center;">  </div>	<p>Highway Route-Controlled Quantity (HRCQ)</p>

3.04 Materials Permitted to Use EJMT when Loveland Pass (US 6) is closed. Subject to the requirements of these rules and all state and federal laws, Commercial Vehicles, Motor Vehicles and Persons may transport the following hazardous materials through the EJMT only when Loveland Pass (US 6) is closed.

PERMITTED TO USE EJMT WHEN LOVELAND PASS (US 6) IS CLOSED SUBJECT TO RESTRICTION	
	Division 1.6 Placard Extremely Insensitive Detonating Substances
	Class 7 Placard Radioactive Materials
<p>This is a point-on-point placard as distinguished from HRCQ placard which has a square background. HRCQ is prohibited at all times.</p>	
	Division 2.1 Placard Flammable Gases
	Division 2.2 Placards Non-Flammable, Non Poisonous Gases
	Class 3 Placards Flammable Liquids

PERMITTED TO USE EJMT WHEN LOVELAND PASS (US 6) IS CLOSED

SUBJECT TO RESTRICTION

	<p>Class 3 Placards Combustible Liquids</p>
	<p>Division 4.1 Placard Flammable Solids</p>
	<p>Division 4.2 Placard Spontaneously Combustible Materials</p>
	<p>Division 5.1 Placard Oxidizing Substances</p>
	<p>Division 6.1 Placards Poisonous or Toxic Materials (excludes inhalation hazards)</p>
	<p>Division 6.2 Label Infectious Substances</p>

PERMITTED TO USE EJMT WHEN LOVELAND PASS (US 6) IS CLOSED SUBJECT TO RESTRICTION	
	Class 8 Placard Corrosive Substances
	Class 9 Placard Miscellaneous Hazardous Materials
	Dangerous Placard Dangerous Hazardous Materials
	ORM-D Label Other Regulated Materials

3.05 Restrictions on Placarded Loads Carrying Hazardous Materials when Loveland Pass (US 6) is Closed.

A. Peak Period Operations. Peak Periods are those times of increased vehicle traffic determined by the Department to warrant restrictions on the transporting of placarded quantities of permitted hazardous materials.

1. No vehicles containing placarded quantities of hazardous materials are allowed to use EJMT during the following time frames:

Westbound

Saturday and Sunday mornings, from 7:01 a.m. to 9:59 a.m.

National Holidays when they fall on a Monday or Friday from 7:01 a.m. to 9:59 a.m.

Eastbound

Sunday afternoons, from 2:01 p.m. to 6:59 p.m.

National Holidays when they fall on a Monday or Friday, from 2:01 p.m. to 6:59 p.m.

Special Provisions for New Years Day and Christmas Day.

The day preceding and the day following the holiday may be included in the Peak Period restrictions. When Christmas Day or New Years' Day fall on a weekday, Peak Period restrictions may include Friday and Saturday eastbound.

2. National Holidays for purposes of these Rules are: New Year's Day (January 1); Martin Luther King, Jr. Day (3rd Monday of January); President's Day (3rd Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (1st Monday in September); Thanksgiving Day (4th Thursday in November) and Christmas Day (December 25).
3. CDOT will provide real-time information specific to Commercial Motor Vehicles including placarded loads carrying Hazardous Materials, on Interstate 70 with details including road conditions, Loveland Pass closures, Hazmat holds at EJMT, and forecasts of Peak Period travel delays. When feasible, CDOT may route placarded quantities of hazardous materials through the EJMT during significant gaps in traffic when Loveland Pass (US 6) is closed during Peak Period restrictions.
4. Loads carrying Placarded quantities of Hazardous Materials will be allowed to Stage outside of the 300 foot restriction to the EJMT and at least 5 feet from the State Highway in designated parking spaces. After these spaces are filled, Persons, Motor Carriers and Commercial Vehicles may use Herman's Gulch (Exit 218), Officer's Gulch (Exit 198) or other rest areas to Stage pending notification from CDOT Tunnel personnel that access is permitted.

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1. Seven days a week on the hour; and
2. Between the hours of 11 p.m. and 6 a.m. on the half hour.

3.06 All Motor Vehicles, Commercial Vehicles and Persons transporting authorized Hazardous Materials through the EJMT shall:

Travel at speeds no faster than 30 miles per hour;

Not pass other vehicles; and

Maintain a minimum distance of 800 feet from other vehicles.

3.07 Hazmat Routes

3.07.1 The EJMT is not located on a designated hazardous materials route section. The designated hazardous materials routes within the State of Colorado may be found at

<http://dtdapps.coloradodot.info/staticdata/Downloads/StatewideMaps/HazMatMap.pdf>.

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F-13-X	Interstate 70, MP 213, Eisenhower/Johnson Memorial Tunnels	Bores, under the Continental Divide, 60 miles west of Denver	070A	213.61	Y

Structure No.	Tunnel Name & Location	Description	Route	Mile Post	NHS (Y/N)
F-13-Y	Interstate 70, MP 213, Eisenhower/Johnson Memorial Tunnels	Bores, under the Continental Divide, 60 miles west of Denver	070A	213.61	Y
F-15-BN	Interstate 70, MP 242, Twin Tunnels	One bore each Tunnel, within the city limits of Idaho Springs (2.6 miles east of junction with SH 103)	070A	242.11	Y
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Resolution # TC -

Adoption of Rules Governing the Use of Tunnels on Colorado State Highways, 2 CCR 601-8.

WHEREAS, § 43-1-106(8)(k), C.R.S., § 42-4-106 (7)(a) and (b), C.R.S., and § 42-20-301(3), authorize the Transportation Commission of Colorado (the “Commission”) to promulgate rules governing the use of tunnels on Colorado state highways; and

WHEREAS, by Resolution TC-3132 dated January 22, 2014, the Commission opened the rule-making process and authorized the Department to take all steps necessary in compliance with the State Administrative Procedure Act, 24-4-103, C.R.S. including holding a public rule-making hearing; and

WHEREAS, by Resolution TC-3132 dated January 22, 2014, the Commission adopted the revised Tunnel Rules on a temporary basis; and

WHEREAS, in conformance with Governor Hickenlooper’s Executive Order D 2012-002, the proposed rules reflect a collaborative process between the Department and members of industry and other key stakeholders focused on improving the use of the Eisenhower Johnson Memorial Tunnels when Loveland Pass is closed; and

WHEREAS, an Administrative Hearing Officer, acting with delegated Commission authority, presided over a public rule-making hearing on March 28, 2014; and

WHEREAS, the rule-making process conducted by the Department has met the requirements of the State Administrative Procedure Act with regard to both temporary rules and the adoption of permanent rules; and

WHEREAS, the Department requests that the Commission adopt the proposed Rules Governing the Use of Tunnels on Colorado State Highways, 2 CCR 601-8.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission herein adopts the Rules Governing the Use of Tunnels on Colorado State Highways, 2 CCR 601-8.

Transportation Commission Secretary

Date