



COLORADO

Department of Transportation

Office of Policy and Government Relations

4201 E. Arkansas, Room 275
Denver, CO 80222

**Memorandum: Rules Pertaining to Transport Permits for the Movement of
Extra-Legal Vehicles or Loads
("Oversize Overweight Rules" or "OSOW Rules")**

Purpose

To update the Rules Pertaining to Transport Permits for the Movement of Extra-Legal Vehicles or Loads ("OSOW Rules"), 2 CCR 601-4 in conformance with current practice.

Action

To open rule-making and delegate authority to an Administrative Hearing Officer to Conduct a Public Hearing Regarding Amendments to the Rules Pertaining to Transport Permits for the Movement of Extra-Legal Vehicles or Loads ("Oversize Overweight Rules" or "OSOW Rules"), 2 CCR 601-4.

Background

CDOT has 22 sets of rules; of these, the Commission has statutory authority to promulgate 13 sets; the remaining 9 sets are under the authority of the Executive Director. The OSOW Rules are under the authority of the Commission. Because administrative Rules have the force of law, any change in wording must follow the full process set forth in the Administrative Procedure Act. The many steps in this process include: requesting that stakeholders review the rule changes, requesting the Commission open the rule making process, gathering public input, holding a hearing, the Administrative Hearing Officer recommending a course of action to the Commission, requesting the Commission adopt the rules, and finally, requesting review by the Attorney General's Office.

The OSOW rules were last updated on June 30, 2012. That update was based on statutory changes resulting from legislation in 2011 (HB11-1192, HB 11-1163, and HB11-1279) which amended § 42-4-505(3)(a) C.R.S. and § 42-4-510 C.R.S.

Details

While an explanation of all proposed changes to the rules is set forth below, a copy of the red-line rules showing the changes are available upon request.

The proposed Rule amendments are a result of: (1) legislation in 2014 regarding a new annual fleet permit; (2) the Department's implementing an electronic permitting system and lessening the burden on drivers of commercial motor vehicles to carry



paper documents; (3) conforming Auxiliary Power Unit (“APU” requirements based on changes in the federal regulations made pursuant to MAP-21; and (4) a practical revision of the Rules meant to clarify a statute that speaks to certain roads with low clearances. The proposed amendments are made to:

1. Conform the rules to HB14-1160, codified at § 42-4-510(11)(a)(VII)(D), C.R.S., which created a new annual fleet permit for non-interstate overweight divisible loads pertaining to power units utilizing a trailer with two or three axles. See Rule 300.6 and 300.11.
2. Incorporate processes for the new electronic permitting system. The changes to the Rules include:
 - Stating that a copy of the Rules will be available electronically on the Department’s website, and need not be carried in hard copy in the commercial motor vehicle. See Rules 103.5 and 309, and 309.1.2;
 - Coordinating the Rules with CVIEW (Commercial Vehicle Information Exchange Window) used by law enforcement;
 - Modifying the application information required for the system. See Rules 303.1 through 303.4, 303.18, and 303.19;
 - Providing an option of having the Transport Permit available electronically while operating the commercial motor vehicle. See Rule 309.1.1; and
 - Adhering to routing restrictions. See Rule 309.1.3.
3. Conforming the Auxiliary Power Unit (“APU”) requirements to a change in weight made in MAP-21, increasing it from 400 to 550 lbs. See 23 U.S.C. 127. This only concerns permitted vehicles. This change also conforms CDOT’s Rules with the Colorado Port of Entry Rules for Commercial Motor Carrier Size, Weight and Clearance, 8 CCR 1507-28, Rule IV B.2 a “Auxiliary Power Units (APU) and Idle Reduction Technology Units” (stating that any vehicle that uses an APU or idle reduction technology unit in order to reduce fuel use and emissions resulting from engine idling shall have the actual weight of the APU or idle reduction technology unit exempted from the calculation of the actual axle and Gross Vehicle Weight (GVW), up to 550 pounds).
4. Clarify height restrictions in § 42-4-504(1), C.R.S., which provides: “No vehicle unladen or with load shall exceed a height of thirteen feet; except that vehicles with a height of fourteen feet six inches shall be operated only on highways designated by the department of transportation.” The Department believes it is better to provide information to motor carriers where the low structures are located in the state rather than where clearances are in excess of 13 feet in height (up to 14 feet six inches in height). In relation to the number of highway miles, there are only a few low clearance structures. See Rules 103.1.2, 305.1, and 306.1.



Key Benefits

The proposed changes in the Rules align with MAP-21, with state statutory changes from 2014, with changes as a result of CDOT's electronic permitting process, and with current practice.

Options and Recommendations

- Open the Rules and delegate authority to an Administrative Hearing Officer to hold a public rule-making hearing. (staff supported option)
- Defer the decision to open the rules pending the provision of additional information;
or
- Decline to open the rules at this time.

Attachments

- Resolution
- A Red-line copy of Rules showing proposed amendments is available upon request



Resolution # TC-

Open Rule Making and Delegate Authority to an Administrative Hearing Officer to Conduct a Hearing Regarding Amendments to the Rules Pertaining to Transport Permits for the Movement of Extra-Legal Vehicles or Loads (“OSOW Rules”), 2 CCR 601-4.

WHEREAS, § 42-4-510(1)(b)(I), § 42-4-510(1.7)(B)(II)(B), § 42-4-511(1) and § 43-1-106(8)(k) C.R.S. authorize the Transportation Commission of Colorado (“Commission”) to promulgate rules regarding permits for extra-legal vehicles or loads; and

WHEREAS, the proposed amendments to the OSOW Rules are based on changes to Auxiliary Power Unit (“APU”) requirements from a change in weight made in MAP-21 (23 U.S.C. 127) increasing it from 400 to 550 pounds; and

WHEREAS, additional changes are based on statutory changes resulting from HB14-1160, codified at § 42-4-510(11)(a)(VII)(D), C.R.S., which created a new annual fleet permit for non-interstate overweight divisible loads pertaining to power units utilizing a trailer with two or three axles; and

WHEREAS, the Department seeks to clarify height restrictions in § 42-4-504(1), C.R.S., by providing information to motor carriers where the low structures are located in the state rather than where clearances are in excess of 13 feet in height (up to 14 feet six inches in height); and

WHEREAS, the proposed amendments incorporate processes for CDOT’s electronic permitting system for oversize and overweight vehicles; and

WHEREAS, the Commission has the authority to delegate authority to an Administrative Hearing Officer for the purposes of conducting a rule-making hearing, making a complete procedural record of the hearing, and submitting that record and any recommendations to the Commission for its review and action concerning amendment to the Rules; and

WHEREAS, proposed amendments of the Rules further effectuate Governor Hickenlooper’s Executive Order 2012-002, which directs all state agencies to review and update any existing rules to confirm that they are effective, efficient and essential; and

NOW THEREFORE BE IT RESOLVED, the Commission opens the rule-making process and authorizes staff to take all necessary actions in accordance with the State Administrative Procedure Act for the purpose of amending the Rules Pertaining to Transport Permits for the Movement of Extra-Legal Vehicles or Loads, 2 CCR 601-4.

BE IT FURTHER RESOLVED, the Commission delegates its authority to conduct the public rulemaking hearing to a CDOT Administrative Hearing Officer to prepare a complete record of the hearing and provide the rule-making record, findings, and the proposed amendments to the Rules to the Commission for consideration and adoption.