

Permanent Rulemaking Hearing

2 CCR 606-1

“Rules Governing the Administrative Toll
Enforcement Process”



Exhibits

**Rulemaking Hearings on 2 CCR 606-1
Index of Exhibits**

Exhibit	Description
1	Meeting minutes dated April 20, 2022, from the Enterprise Board opening the rule-making process.
2	A. SOS Notice of Rulemaking Confirmation dated April 28, 2022. B. Proposed rules filed with the SOS to open rule making. C. Notice of Hearing posted April 28, 2022. D. Notice of Rulemaking Hearing published in Colorado Register on May 10, 2022.
3	A. DORA Notice of Rulemaking Confirmation on April 28, 2022. B. DORA Notice to Stakeholders dated April 28, 2022. C. DORA Notice that a Cost-Benefit Analysis is not required dated May 19, 2022.
4	Statement of Basis and Purpose, posted and filed April 28, 2022.
5	Screenshot of CDOT's website indicating that CDOT posted rulemaking hearing date, time, and location on CDOT website on April 28, 2022.
6	HB 22-1074, providing the statutory basis for the proposed rules.
7	Stakeholder List and outreach, including A. Stakeholder List B. Email Notice of Proposed Rulemaking for 2 CCR 606-1 dated April 28, 2022.
8	Email notifications and updates to Interested Parties regarding the rulemaking dated April 28, 2022.
9	Memo to maintain permanent rule making record.
10	Proposed Rules for Adoption June 15, 2022.

Exhibit 1

	<p style="text-align: center;">MINUTES OF THE INFORMAL DISCUSSION AND REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE COLORADO TRANSPORTATION INVESTMENT OFFICE (CTIO)¹</p> <p style="text-align: center;">Held: Wednesday, April 20, 2021, 9:00 am Broadcast on YouTube Live. A recording of the meeting can be found here.</p> <p>The regular meeting of the CTIO Board of Directors was convened in accordance with applicable statutes of the State of Colorado, with the following Directors present:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Margaret Bowes, Chair</td> <td style="width: 50%;">Cecil Gutierrez</td> </tr> <tr> <td>Karen Stuart, Vice-Chair</td> <td>Joel Noble</td> </tr> <tr> <td>Don Stanton</td> <td>Eula Adams</td> </tr> <tr> <td>Travis Easton</td> <td></td> </tr> </table>	Margaret Bowes, Chair	Cecil Gutierrez	Karen Stuart, Vice-Chair	Joel Noble	Don Stanton	Eula Adams	Travis Easton	
Margaret Bowes, Chair	Cecil Gutierrez								
Karen Stuart, Vice-Chair	Joel Noble								
Don Stanton	Eula Adams								
Travis Easton									
Roll Call	<p>All board members, except for Director Easton, were present. The meeting began at 9:00 am.</p> <p>Director Easton joined the meeting at 9:11 am.</p>								
Informal Discussion	<p>CTIO Staff and the board members discussed the following::</p> <ul style="list-style-type: none"> ● Central 70 Globeville and Elyria-Swansea (GES) Tolling Equity Program Approval and Intra Agency Agreement (IAA); ● IBTTA Technology Summit; ● Blissway Multi-Agency Pilot; ● House Bill 22-1074- Traffic Violations On Interstate 70 Shoulder Lanes Rulemaking; ● CDOT and OEDIT Intra Agency Agreement for Burnham Yard; ● Second Amendment to the Fiscal Year 2021-22 Budget. <p>Discussion</p> <ul style="list-style-type: none"> ● CTIO staff and board members discussed: <ul style="list-style-type: none"> ○ The benefits that GES residents can expect to see and that they are not restricted to one or the other, they can have both benefits. Staff also mentioned the positive discussions that have taken place so far with E-470 and the plans to implement the program if approved. ○ Elements of the Blissway pilot, including safety concerns around ways to verify HOV3+, the future beta agreement that is in the 								

¹ The High Performance Transportation Enterprise (HPTE) is now doing business as the Colorado Transportation Investment Office (CTIO). CTIO is how the enterprise will refer to itself now and in the future, however, the HPTE name is retained for legislative and legal documents.

	<p>process of being executed, and reduced rates for CTIO if Blissway technology is successful and will be used on CTIO's network.</p>
Roll Call Regular Meeting	<p>All board members were present. The meeting began at 9:45 am.</p>
Public Comment	<p>There was no public comment.</p>
Director's Report	<p>Nick Farber, CTIO Director, provided the Director's Report, which included information on the following:</p> <ul style="list-style-type: none"> ● Attendance at the JP Morgan investor conference in New York City to meet with C-470 Revenue Bond investors. ● Along with Region 1 and Region 4, CTIO staff met with ROADIS on I-25N for the last time before submission of their Phase Two (Detailed Proposal), which is due on May 12th. ● A pre-solicitation notification for the Burnham Yard Transportation Planning Study was released earlier this month for consultant teams interested in providing conceptual track design, noise/vibration analysis, and stakeholder and public meeting facilitation. CTIO staff anticipate releasing the Request for Proposals (RFP) on April 27th, 2022. ● CTIO staff held a discussion with the Build America Bureau regarding the I-25N Transportation Infrastructure Finance and Innovation Act (TIFIA) loan closing schedule. ● Executive Director Lew sent a letter requesting an extension of the CDOT Office of Economic Development and International Trade (OEDIT) Intra-Agency Loan Agreement for another year interest-free. This letter will be shared with the board after this meeting. ● The International Bridge, Tunnel, and Turnpike Association (IBTTA) has provided a discount on the registration fee for the upcoming meeting in Denver in May, which CTIO staff and some board members will attend. Since the meeting ends the day before the next board meeting, CTIO staff have decided to make the Board meeting strictly virtual and shorter.
Legislative Update	<p>Andy Karsian (CDOT Liaison) provided the legislative update, which focused on transportation bills related to senate: bill 22-176 related to Burnham Yard and environmental costs, expansion of transit, office of information technology procurement, matching funds for local governments and state agencies for transportation projects, and a bill related to distracted driving.</p> <p>Discussion</p> <ul style="list-style-type: none"> ● Board members and staff discussed the elements of the distracted driving bill and the areas it covers.

<p>Consent Agenda: Resolution #383 March 2022 Board Minutes</p>	<p>ACTION: Upon a motion by Director Easton and second by Director Stanton, a vote was conducted, and Resolution #383, March 2022 minutes, was unanimously approved.</p>
<p>Resolution #384 Central 70 Globeville and Elyria Swansea Tolling Equity Program Approval and IAA between CDOT and CTIO</p>	<p>ACTION: Upon a motion by Vice-Chair Stuart and second by Director Adams, a vote was conducted, and Resolution #384, Adoption of the Central 70 Globeville and Elyria Swansea Tolling Equity Program and IAA between CDOT and CTIO, was unanimously approved.</p>
<p>Resolution #385 House Bill 22-1074 Traffic Violations on Interstate 70 Shoulder Lanes Rulemaking</p>	<p>ACTION: Upon a motion by Director Gutierrez and second by Director Stanton, a vote was conducted, and Resolution #385, House Bill 22-1074 Traffic Violations on Interstate 70 Shoulder Lanes Rulemaking, was unanimously approved.</p>
<p>Resolution #386 Approval of the Second Amendment to the Fiscal Year 2021-2022 Budget</p>	<p>ACTION: Upon a motion by Director Easton and second by Director Gutierrez, a vote was conducted, and Resolution #386, Approval of the Second Amendment to the Fiscal Year 2021-2022 Budget, was unanimously approved.</p>
<p>Executive Session</p>	<p>CTIO Board Chair Bowes proposed a motion to convene the Board in an executive session to discuss the board's position relative to matters subject to negotiations regarding contracting for CTIO's operations. Upon a motion by Director Adams and second by Director Easton, the CTIO Board entered the Executive Session at 10:04 am. Members of the public were excused.</p> <p>The executive session discussion is required to be kept confidential pursuant to Section 24-6-402(3)(b)(II).</p> <p>The CTIO Board exited the Executive Session at 11:02 am.</p>
<p>Adjourn</p>	<p>The CTIO Board adjourned at 11:02 am.</p>

Exhibit 2



2A

Agency Rulemaking Home

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Notice of Rulemaking Confirmation

Official Publication of the State Administrative Rules (24-4-103(11) C.R.S.)

Date Filed: April 28, 2022 12:38:56

Please print this page for your records

REMEMBER: You must submit your proposed rules to DORA's Office of Policy, Research and Regulatory Reform at the time of filing this notice with the Secretary of State, as required by section 24-4-103(2.5) C.R.S.

Link: https://www.dora.state.co.us/pls/real/SB121_Logon

Your notice of rulemaking has been submitted to the Secretary of State.
Your tracking number is 2022-00215.

Department	600 - Department of Transportation
Type of Filing	Permanent
Agency	606 - High Performance Transportation Enterprise Board
CCR Number	2 CCR 606-1
CCR Title	RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS
Hearing Date	06/15/2022
Hearing Time	09:00 AM
Hearing Location	*virtual only* https://cdot.zoom.us/j/83884667227?pwd=OVUwMHZ4bkowZjBCN3NlVnNF0EVzZz09

Description

The High Performance Transportation Enterprise ("HPTE") is a type 1 board created pursuant to § 43-4-806(2)(a)(I), C.R.S., whose purpose is to pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects. Section 43-4-808(2)(b), C.R.S., grants the HPTE the authority to adopt rules pertaining to the enforcement of toll collection and provide a civil penalty for Toll Evasion for roads within the HPTE's jurisdiction. Section 43-4-808(2)(d)(II), C.R.S., provides authority to the HPTE to establish an administrative toll enforcement process and adopt rules creating such a process. The HPTE foresees an expansion of its managed lane network and recognizes the need for a formal administrative enforcement process for civil penalty collection. It is the intent of the HPTE to develop, based on the statutory requirements, an easily accessible, understandable toll enforcement hearing process. House Bill 22-1074 took effect in Colorado on March 15, 2022. The legislation added new traffic violations on the Interstate 70 Peak Period Shoulder Lanes. The legislation requires the HPTE to amend its rules to allow enforcement of these violations using its existing Administrative Toll Enforcement Process codified in 2 CCR 606-1, Rules Governing the Administrative Toll Enforcement Process.

Statutory Authority

The specific authority for these rules is set forth in §§ 43-4-806(2)(a)(1), 43-4-808(2)(b), 43-4-808(2)(d)(II) and 43-4-806(11), C.R.S.

Proposed Rule

[ProposedRuleAttach2022-00215.doc](#)

Additional Information

[AddInfoAttach2022-00215.pdf](#)

Contacts for Public

Name	Sari Weichbrodt
Title	Rules, Policies, and Procedures Advisor
Phone	303-757-9441
Email	dot_rules@state.co.us

Contacts for SOS, AG and OLLS (if different)

Name	Sari Weichbrodt
Title	Rules, Policies, and Procedures Advisor
Email	sari.weichbrodt@state.co.us

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DEPARTMENT OF TRANSPORTATION**High Performance Transportation Enterprise Board****RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS****2 CCR 606-1**

Statement of Basis and Purpose and Statutory Authority

The High Performance Transportation Enterprise ("HPTE") is a type 1 board created pursuant to § 43-4-806(2)(a)(I), C.R.S., whose purpose is to pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects. Section 43-4-808(2)(b), C.R.S., grants the HPTE the authority to adopt rules pertaining to the enforcement of toll collection and provide a civil penalty for Toll Evasion for roads within the HPTE's jurisdiction. Section 43-4-808(2)(d)(II), C.R.S., provides authority to the HPTE to establish an administrative toll enforcement process and adopt rules creating such a process. The HPTE foresees an expansion of its managed lane network and recognizes the need for a formal administrative enforcement process for civil penalty collection. It is the intent of the HPTE to develop, based on the statutory requirements, an easily accessible, understandable toll enforcement hearing process.

1.00 Definitions

- 1.01 "Adjudication Fee" shall mean the fee assessed by the Administrative Hearing Officer and shall include costs arising from the cost of adjudication.
- 1.02 "Administrative Hearing Officer" shall mean an impartial person appointed by the HPTE or a Contractor on its behalf, to adjudicate Toll Evasion cases. The Administrative Hearing Officer may be an administrative law judge employed by the state or an independent contractor of the HPTE. The Administrative Hearing Officer shall have the same degree of independence granted to an administrative law judge employed by the state. § 43-4-808(2)(d)(IV), C.R.S.
- 1.03 "Automatic Vehicle Identification Photography" ("AVIP System") shall mean any photographic system which aids in the collection of Tolls and enforcement of toll violations. See § 43-4-408(2)(b), C.R.S.
- 1.04 "Certified Report" shall mean a report provided to the Department of Revenue, Division of Motor Vehicles either through certified letter, or through electronic file transfer pursuant to a protocol established by HPTE and Department of Revenue.
- 1.05 "Civil Penalty" shall mean the amounts assessed for Toll Evasion, including amounts assessed for late payment, established by the HPTE subject to any limits imposed by § 43-4-808(2)(b) and (c)(I), C.R.S. The Civil Penalty established by the HPTE Board for any Toll Evasion, shall be no less than \$10 nor more than \$250 per toll statement or per Civil Penalty Assessment if assessed by a Peace Officer. The Civil Penalty excludes the Adjudication Fee assessed by an Administrative Hearing Officer.
- 1.06 "Contractor" shall mean any public or private entity with which HPTE contracts to manage user accounts, billing functions and processing Toll Evasions through a Toll Account or other means.
- 1.07 "HPTE" for purposes of these Rules shall mean the Colorado High Performance Transportation Enterprise Board created by § 43-4-806(2)(a)(I), C.R.S.

- 1.08 "Toll Statement" shall mean an invoice for a Responsible Party reflecting Toll usage for such Responsible Party over a specific period of time generated by the AVIP System or other electronic device that will constitute the amount of the Tolls due and payable by such Responsible Party, plus any additional Civil Penalties. See § 43-4-808(2)(b), C.R.S.
- 1.09 "Notice of Civil Penalty Assessment" or "Notice" shall mean an assessment for Toll Evasion against the Person operating the vehicle if issued by a Peace Officer or against a Responsible Party if resulting from an AVIP System or other electronic means.
- 1.10 "Peace Officer" shall mean a person as described in § 16-2.5-101, C.R.S., including Colorado state troopers, officers of the ports, peace officers assigned to specific jurisdictions, and local law enforcement officers authorized to issue Notice of Civil Penalty Assessments for Toll Evasion.
- 1.11 "Person" shall mean the Person operating the vehicle at the time a Toll is incurred and to whom a Peace Officer may issue a Notice of Civil Penalty Assessment.
- 1.12 "Responsible Party" shall mean the registered owner of the vehicle who, based on their status as the registered owner of such vehicle, will be presumed to have given authority, express or implied, to the operator of the vehicle at the time a Toll is incurred and who will be presumed responsible for the payment of the Toll and any related Civil Penalty. If a Notice of Civil Penalty Assessment results from an AVIP System or other electronic means, the Responsible Party shall be liable for payment.
- 1.13 "Toll" shall mean the user fee established by the HPTE from time to time and paid to the HPTE or its Contractor on its behalf for the privilege of using surface transportation infrastructure, including managed lanes. The Toll may include a different rate which shall be established by the HPTE depending upon the method of collection. The Toll shall not include any Civil Penalty or Adjudication Fee.
- 1.14 "Toll Account" shall mean a user agreement with a Contractor establishing an account for payment of Tolls through the use of a Transponder, or other HPTE-approved device or method.
- 1.15 "Toll Evasion" shall have the meaning set forth in Rule 3.01.
- 1.16 "Transponder" means the electronic toll recording device linked to a Toll Account or another payment system approved by the HPTE by which payments of tolls may be imposed.

2.00 Administrative Toll Enforcement Process

- 2.01 Pursuant to § 43-4-808(2)(d)(II), C.R.S., at the request of the judicial department, the transportation enterprise may establish an administrative toll enforcement process.
- 2.02 Pursuant to § 43-4-808 (2)(d)(IV), C.R.S., the HPTE may enter into contracts for adjudication of the toll enforcement process.
- 2.03 The Administrative Hearing Officer shall have exclusive jurisdiction over the administrative toll enforcement process. See § 43-4-808(2)(d)(II), C.R.S.
- 2.04 The HPTE or a Contractor on its behalf shall retain one or more Administrative Hearing Officer(s). See § 43-4-808(2)(b), C.R.S.

3.00 Toll Evasion

- 3.01 Toll Evasion may result from actions of the Responsible Party or Person, including but not limited to:

3.01.1 Failing to pay a Toll or Avoiding a Toll:

- A. For which a statement has been sent, within the time set forth in the statement; or
- B. For which a Civil Penalty has been assessed, within the time required; or
- C. By entering or exiting the Toll Lane other than at a designated access/egress point, and/or swerving between Toll Lanes and General-Purpose Lanes ("Weaving").

3.01.2 Using a Toll Lane:

- A. Without having complied with such other requirements established by HPTE to record or exempt a vehicle from Tolls; or
- B. Having obfuscated, altered or obliterated a license plate or maintained a license plate in violation of § 42-3-202(2)(b), C.R.S., or while travelling without a license plate; or
- C. Tampering with or failing to properly set a Transponder or other electronic device required by HPTE to record or exempt a vehicle from Tolls, so as to cause it to not operate as intended; or
- D. Using the Peak Period Shoulder Lane, as defined in § 43-4-806(11)(a), C.R.S., when the posted signage indicated the Peak Period Shoulder Lane is closed, except as otherwise allowed in §43-4-806(11)(b)(I), C.R.S.; or
- E. Using a Peak Period Shoulder Lane, as defined in § 43-4-806(11)(a), C.R.S., at any time if the person is driving a motor vehicle with more than two (2) axles or that is twenty-five feet (25 ft.) in length or longer; or
- F. In any prohibited fashion as proscribed by § 43-4-806, C.R.S. or other applicable Colorado law.

3.02 The HPTE shall establish the Civil Penalty for Toll Evasion within the limits set forth in statute. The HPTE shall adopt by resolution a Civil Penalty structure for Toll Evasion.

4.00 Notice of Civil Penalty Assessment and Request for Hearing

4.01 A Notice of Civil Penalty Assessment may be issued to the Person operating the motor vehicle involved in a Toll Evasion by a Peace Officer, or ~~may it may result from an unpaid Toll or Toll Statement~~ issued as a result of an AVIP System or other electronic means and sent to the Responsible Party by mail. See § 43-4-808(2)(c)(II) and 43-4-808(2)(f)(I), C.R.S.

4.02 Determination of the time frames for the Notice of Civil Penalty Assessment shall be based on calendar days.

4.03 Notice of Civil Penalty Assessment Sent by Mail Pursuant to §43-4-808(2)(f)(I), C.R.S.

4.03.1 A Notice of Civil Penalty Assessment issued in the instance of Toll Evasion resulting from an AVIP System or other electronic means may be sent to the Responsible Party by first-class mail, or by any mail delivery service offered by an entity other than the United States Postal Service that is equivalent to or superior to first-class mail, or by other means as provided by § 24-4-105(2)(a), C.R.S.

4.03.2 The Notice of Civil Penalty Assessment shall contain:

- A. The name of the Responsible Party;
- B. The address of the Responsible Party;
- C. The license plate number of the vehicle involved;
- D. The date of the Notice;
- E. The date and time of the event(s) that gave rise to the Toll Evasion;
- F. The location of the event(s) that gave rise to the Toll Evasion;
- G. The amount of the Civil Penalty;
- H. A place for the Responsible Party to execute a signed acknowledgment of liability for the cited Toll Evasion; and
- I. Such other information as may be required by law to constitute the Notice of Civil Penalty Assessment as a complaint to appear for adjudication of a Civil Penalty for Toll Evasion if the Toll and Civil Penalty is not paid within thirty (30) days of the date of the Notice of Civil Penalty Assessment. See § 43-4-808(2)(f)(I), C.R.S.
- J. The method and procedure by which a Responsible Party may file an answer.
- K. The method by which a Responsible Party may pay the Notice of Civil Penalty Assessment. If a Notice of Civil Penalty Assessment results from an AVIP System or other electronic means, the Responsible Party shall pay the Civil Penalty either:
 - (1) In person at the location designated by the HPTE or Contractor on its behalf; or
 - (2) By postmarking the payment within twenty days of the Notice; or
 - (3) By other electronic means approved by the HPTE or a Contractor on its behalf.

4.04 Notice of Civil Penalty Assessment Issued by a Peace Officer pursuant to § 43-4-808(2)(c)(I), C.R.S.

4.04.1 Any Peace Officer is authorized to issue a Notice of Civil Penalty Assessment for Toll Evasions. See § 43-4-808(2)(c)(I), C.R.S.

4.04.2 A Notice of Civil Penalty Assessment issued by a Peace Officer shall contain:

- A. The name of the Person operating the motor vehicle;
- B. The address of the Person operating the motor vehicle;
- C. The license plate number of the motor vehicle involved;
- D. The driver's license number of the Person operating the motor vehicle involved in the Toll Evasion;

- E. The nature of the Toll Evasion;
- F. The amount of Civil Penalty prescribed for the Toll Evasion;
- G. The date of the Notice;
- H. A place for the Person to execute a signed acknowledgement of person's receipt of the Notice of Civil Penalty Assessment; and
- I. A place for the Person to execute a signed acknowledgement of liability for the cited Toll Evasion, to be executed at the time the Person cited pays the Civil Penalty.
- J. Such other information as may be required by law to constitute the Notice and complaint to appear for adjudication if the Civil Penalty is not paid within twenty days of the date of the Notice. See § 43-4-808(2)(c)(II), C.R.S.
- K. The method and procedure by which the Person may file an answer.
- L. A statement that if the Person cited does not pay the prescribed Civil Penalty within twenty (20) days of the Notice, the Notice shall constitute a complaint to appear for adjudication of a Toll Evasion, and the Person cited shall, within the time specified in the Notice, file an answer to the complaint in the manner specified.
- M. A statement that failure to contest the alleged violations in the manner and time provided shall be deemed an admission of liability and that a final order of liability may be entered against the Person. See § 43-4-808(2)(f)(I), C.R.S.
- N. A statement that the Person cited shall pay the Civil Penalty either:
 - (1) In person at the location designated by the HPTE or a Contractor on its behalf; or
 - (2) By postmarking the payment within twenty (20) days of the Notice, or
 - (3) By other electronic means approved by the HPTE or a Contractor on its behalf. See § 43-4-808(2)(c)(IV), C.R.S.

5.00 Answer and Request for Hearing or Failure to Request a Hearing

- 5.01 Upon receipt of a timely request for a hearing from the Responsible Party, the HPTE or a Contractor on its behalf, shall set the matter for a hearing before an Administrative Hearing Officer and provide sufficient notice to the Responsible Party or Person of the date, time and place of the hearing as stated in § 24-4-105(2)(a), C.R.S., at least thirty (30) days prior to the hearing.
- 5.02 Time Frame for Filing Answer and Request for Hearing where Notice of Civil Penalty Assessment is provided by an AVIP System or other electronic means pursuant to § 43-4-808(2)(f)(I), C.R.S.
 - 5.02.1 If the Responsible Party does not pay the prescribed Toll and/or Civil Penalty within thirty (30) days of the date of the Notice of Civil Penalty Assessment, the Notice shall constitute a complaint to appear for adjudication of a Toll Evasion in an administrative Toll enforcement proceeding.
 - 5.02.2 The Responsible Party shall, within the time specified in the Notice of Civil Penalty Assessment, file an answer to the complaint in the manner specified in such Notice.

5.02.3 If the Responsible Party fails to pay in full the outstanding Toll and/or Civil Penalty as set forth in the notice or to appeal and answer the complaint and request a hearing as specified in the notice, a final order of liability shall be entered against the Responsible Party for purpose of enabling the Responsible Party to appeal the final order of the Administrative Hearing Officer pursuant to Rule 7.07 hereof and allow the HPTE or a Contractor on its behalf, to proceed to judgment.

5.03 Time Frame for Filing Answer and Request for Hearing where the Notice of Civil Penalty Assessment is provided by a Peace Officer pursuant to § 43-4-808(2)(c)(III) and (IV), C.R.S.

5.03.1 If the Person cited does not pay the prescribed Civil Penalty within twenty (20) days of the Notice, the Notice of Civil Penalty Assessment shall constitute a complaint to appear for adjudication of a Toll Evasion and the Person cited shall, within the time specified in the Notice of Civil Penalty Assessment, file an answer to the complaint in the manner specified in such notice.

5.03.2 The acknowledgement of liability shall be executed at the time the Person cited pays the prescribed Civil Penalty.

6.00 Presumptions of Liability for Toll Evasion

6.01 Presumption Regarding the Registered Owner of a Vehicle. The Responsible Party shall be presumed liable for the Toll and Civil Penalty imposed by the HPTE or a Contractor on its behalf. See § 43-4-808(2)(f)(I), C.R.S.

6.02 The Responsible Party involved in a Toll Evasion violation may rebut the presumption of liability for the violation by proving by a preponderance of the evidence that:

6.02.1 The owner sold or otherwise transferred ownership of the vehicle to another person before the date of the violation as evidenced by a bill of sale or similar document; or

6.02.2 The owner did not have custody and control of the vehicle at the time of the violation due to theft as evidenced by a report to a law enforcement agency; or

6.02.3 The person operating the vehicle in the Peak Period Shoulder Lane was operating an authorized emergency vehicle, as defined in §42-1-102(6), C.R.S., or an authorized service vehicle, as defined in §42-1-102(7), C.R.S., or was using the lane in the case of an emergency; or

6.02.4 Other rights or defenses available under applicable law.

6.03 Liability Regarding the Owner of a Motor Vehicle Engaged in the Business of Leasing or Renting Motor Vehicles.

6.03.1 The owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a Toll Evasion violation Civil Penalty; except that, at the discretion of such owner:

A. The owner may obtain payment for a Toll Evasion violation Civil Penalty from the person or company who leased or rented the vehicle at the time of the Toll Evasion through a credit or debit card payment and forward the payment to the HPTE or a Contractor on its behalf; or

B. The owner may seek to avoid liability for a Toll Evasion violation Civil Penalty if the owner of the leased or rented motor vehicle can furnish sufficient evidence that,

at the time of the Toll Evasion violation, the vehicle was leased or rented to another person.

- 6.03.2 To avoid liability for payment, the owner of the motor vehicle shall, within thirty (30) days after receipt of the Notice of Civil Penalty Assessment, furnish to the HPTE or a Contractor on its behalf an affidavit containing the name, address, and state driver's license number of the person or company who leased or rented the vehicle.

7.00 Administrative Adjudication Proceeding

7.01 General Provisions

- 7.01.1 Upon receipt of a request, the HPTE or a Contractor on its behalf shall set the matter for a hearing before an Administrative Hearing Officer.
- 7.01.2 The HPTE or a Contractor on its behalf shall establish and maintain hearing facilities for the conduct of Toll enforcement hearings, which shall be in the form of an administrative adjudication proceeding.
- 7.01.3 The Responsible Party or Person shall be the respondent to the complaint.

7.02 Conduct of Hearing

- 7.02.1 The Administrative Hearing Officer shall preside over the hearing and shall have all powers under the State Administrative Procedure Act set forth in § 24-4-105, C.R.S., except that for purposes of these Rules, the decision of the Administrative Hearing Officer shall be a Final Order and may not be appealed to the HPTE.
- 7.02.2 The State Administrative Procedure Act, § 24-4-105, C.R.S., shall apply to the administrative adjudication proceeding. In the case of a conflict between the requirements of § 43-4-808, C.R.S., and § 24-4-105, C.R.S., § 43-4-808, C.R.S., shall apply.
- 7.02.3 The standard of review shall be by a preponderance of the evidence.
- 7.02.4 With regard to § 24-4-105(8), C.R.S., the Administrative Hearing Officer may take notice of the scientific principles underlying technology utilized by the HPTE or the Contractor on its behalf, to produce automatic vehicle identification imagery, the foundation of which may be presumed, subject to rebuttal by a preponderance of the evidence.
- 7.02.5 The Responsible Party may view automatic vehicle identification imagery evidence by appointment with the HPTE or a Contractor on its behalf, on a date prior to that of the hearing at a time and location designated by the Administrative Hearing Officer.

7.03 Continuances

- 7.03.1 The Responsible Party or Person, or their legal representative shall have right to one (1) continuance to seek representation by legal counsel.
- 7.03.2 Either party shall have the right to a continuance due to disruption of an automated or electronic adjudicatory file or processing system.

7.04 Failure to Appear

7.04.1 If a Responsible Party or Person who has answered and requested a hearing fails to appear at the hearing as originally set or as continued by the Administrative Hearing Officer, upon satisfaction that notice of the hearing was given by the HPTE or a Contractor on its behalf, to the Responsible Party or Person, the Responsible Party or Person will be deemed to have admitted liability and have waived the right to a hearing.

7.04.2 In this case, a final order of liability in default for Civil Penalty and Adjudication Fee, if any, may be entered against the Responsible Party or Person.

7.05 Decision of the Administrative Hearing Officer a Final Order

7.05.1 The Administrative Hearing Officer shall make a finding as to whether the Responsible Party or Person is liable for a Civil Penalty and, if applicable, an Adjudication Fee, and render a decision in the form of an Administrative Hearing Officer's final order.

7.05.2 The Administrative Hearing Officer may enter default against the Responsible Party or Person in a final order.

7.05.3 The Administrative Hearing Officer, upon the entry of default, shall find:

A. That the Notice of Civil Penalty Assessment was provided to the Responsible Party or Person; and

B. The Responsible Party or Person was provided with notice of the opportunity to appear at a hearing; and

C. The Notice was sent to the Responsible Party's or Person's last known address based on the vehicle records of the Department of Revenue, Division of Motor Vehicles, or the last known address for the Responsible Party or Person which the HPTE or Contractor on its behalf, has obtained during the course of the toll enforcement process.

7.05.4 A decision by the Administrative Hearing Officer of liability or no liability for the Toll and Civil Penalty shall be final for purposes of the administrative adjudication process.

7.05.5 The decision of the Administrative Hearing Officer shall be final and binding upon the parties. The Final Order may not be appealed to the HPTE pursuant to § 24-4-105(14)(a), C.R.S.

7.06 Payment of Decision of Administrative Hearing Officer

7.06.1 A Responsible Party or Person shall pay the amount set forth in a final order within thirty (30) days of the effective date.

7.07 Appeal of Administrative Hearing Officer's Final Order

7.07.1 The administrative adjudication of a Toll Evasion is subject to judicial review and may be appealed as to matters of law and fact to the county court for the county in which the violation occurred. See § 43-4-808 (2)(d)(VI), C.R.S.

7.07.2 The Administrative Hearing Officer's final order may be appealed within thirty (30) days of the effective date.

7.07.3 The county court shall conduct a de novo review upon appeal. See § 43-4-808 (2)(d)(VI), C.R.S.

- 7.07.4 The HPTE or a Contractor on its behalf may certify the record on appeal by filing a certified copy of the order imposing a Toll and Civil Penalty that is entered by the Administrative Hearing Officer with the clerk of the county court in the county in which the violation occurred at any time after the order is entered. See § 43-4-808 (2)(d)(V), C.R.S.
- 7.07.5 The clerk shall record the order in the judgment book of the court and enter it in the judgment docket. See § 43-4-808 (2)(d)(V), C.R.S.
- 7.07.6 The order shall thenceforth have the effect of a judgment of the county court and execution may issue on the order of the court as in other cases. See § 43-4-808 (2)(d)(V), C.R.S.

7.08 Remedies

- 7.08.1 Notwithstanding the specific remedies provided by § 43-4-808, C.R.S., the HPTE shall have every legal remedy available to enforce unpaid Tolls and Civil Penalties as debts owed to the HPTE. See § 43-4-808(2)(d)(VII), C.R.S.
- 7.08.2 The HPTE or a Contractor on its behalf may report to the Department of Revenue any outstanding judgment or warrant or any failure to pay the Toll or Civil Penalty for any Toll Evasion, including any Adjudication Fee imposed by an Administrative Hearing Officer. See § 43-4-808(2)(g), C.R.S.
- 7.08.3 Neither the existence nor utilization of an administrative toll enforcement procedure nor these rules shall be construed to limit the HPTE's or a Contractor's rights or remedies available under the law.

8.00 Department of Revenue Action

- 8.01 The HPTE or a Contractor on its behalf as stated in § 43-4-808(2)(g), C.R.S., may report to the Department of Revenue any outstanding judgment or warrant or any failure to pay the Toll or Civil Penalty for any Toll Evasion.
- 8.02 Upon receipt of a certified report from the HPTE or its Contractor on its behalf, stating that the owner of a registered vehicle has failed to pay a Toll or Civil Penalty including any Adjudication Fees imposed by an Administrative Hearing Officer, resulting from a final order, the Department of Revenue shall not renew the registration of the vehicle until the Toll and Civil Penalty are paid in full. See § 43-4-808(2)(g), C.R.S.
- 8.03 A Certified Report from the HPTE shall be provided to the Department of Revenue upon the owner successfully paying in full a Toll or Civil Penalty releasing the non-renewal of the owner's vehicle.
- 8.04 The Department of Revenue has no authority to assess any points against a driver's license under § 42-2-127, C.R.S., upon entry of a conviction or judgment for any Toll Evasion.

9.00 Declaratory Orders

- 9.01 The HPTE may, at its discretion, entertain petitions for declaratory orders pursuant to § 24-4-105(11), C.R.S.



COLORADO
Department of Transportation

2829 W. Howard Place
Denver, CO 80204-2305

2C

Notice of Proposed Rulemaking
High Performance Transportation Enterprise
Rules Governing the Administrative Toll Enforcement Process
2 CCR 606-1

Date & Time of Public Hearing: Wednesday, June 15, 2022, at 9:00 a.m.

I. Notice

As required by the State Administrative Procedure Act found at Section 24-4-103, C.R.S., the High Performance Transportation Enterprise (HPTE) gives notice of proposed rulemaking.

This proposed permanent rulemaking hearing is scheduled for **June 15, 2022, at 9:00 a.m.** and will only be conducted in a virtual setting. All interested and affected parties must register to attend the public hearing through the registration link provided in the table below.

Date	Location	Time	Registration Links
06/15/2022	Webinar Only	9:00 a.m.	Registration Link

How to Register for Hearing

You must click on the registration link from the above table to register for the hearing. When you register, you must provide your full name, email address, telephone number, and mailing address. You may also provide the name of the organization that you are representing. Finally, please indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the hearing.

The registration link for the hearing is also available on the Colorado Department of Transportation’s website at <https://www.codot.gov/business/rules/proposed-rules>.

II. Subject

House Bill 22-1074 took effect in Colorado on March 15, 2022 and added new traffic violations on the Interstate 70 Peak Period Shoulder Lanes. The legislation requires the HPTE to amend its rules to allow enforcement of these violations using the Administrative Toll Enforcement Process codified in 2 CCR 606-1, Rules Governing the Administrative Toll Enforcement Process. The proposed changes clarify that swerving between Toll Lanes and General-Purpose Lanes is a toll violation and provide for the HPTE Board to entertain petitions for declaratory orders.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory Authority

The specific authority under which the High Performance Transportation Enterprise shall amend these rules is set forth in § § 43-4-806(11) and 43-4-808(2)(d), C.R.S.



IV. Copies of the Notice, Proposed Rules, and the Statement of Basis, Purpose & Authority

The notice of hearing, the proposed rules, and the proposed statement of basis, purpose and authority are available for review at CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

If there are changes made to the proposed rules prior to the hearing, the updated proposed rule will be available to the public and posted on CDOT's website by June 8, 2022.

Please note that the proposed rule changes being considered are subject to further changes and modifications after the public hearing and the deadline for the submission of written comments.

V. Opportunity to testify and submit written comments

CDOT strives to make the rulemaking process inclusive to all. Everyone will have the opportunity to testify and provide written comments concerning the proposed rule. Interested and affected parties are welcome to testify and submit written comments.

The format of the hearing at the June 15 Board meeting will proceed as follows:

- The Board Chair opens the hearing and provides a brief introduction of the hearing procedures.
- CDOT staff will establish that the HPTE and CDOT met all the procedural requirements of the Administrative Procedure Act.
- HPTE staff will present a summary of the proposed rules.
- Participants will have the opportunity to give testimony regarding the proposed rules.

Testimony

The testimony phase of each hearing will proceed as follows:

- The Board Chair will identify the participants who indicated that they plan to testify during the hearing based on the registration records.
- The Board Chair will then ask whether any additional participants wish to testify.

To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Written Comments

All interested and affected parties are strongly encouraged to submit their written comments on the proposed changes by May 31, 2022 to dot_rules@state.co.us. **All written comments must be received on or before Tuesday, June 7, 2022, at 5 p.m. for consideration by the HPTE Board.**

Additionally, prior to the hearing, we will post all written comments to CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

All written comments will be added to the official rulemaking record and may be subject to disclosure.

VI. Recording of the Hearings

The hearing will be recorded. After the hearing concludes, the recording will be available on CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.



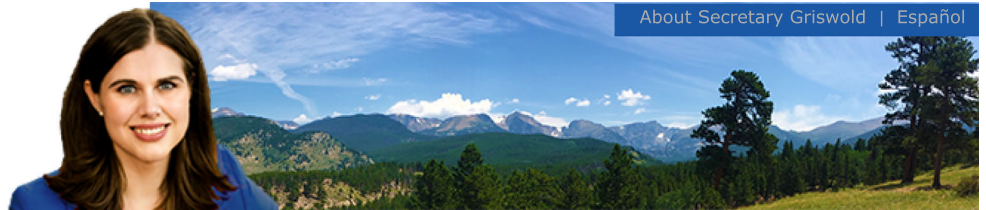
VII. Special Accommodations

If you need special accommodations, including language translation, please contact CDOT's Rules Advisor at dot_rules@state.co.us or 303.757.9441 at least two (2) weeks prior to the scheduled hearing date.

VIII. Contact Information

Please contact CDOT's Rules Advisor at dot_rules@state.co.us or 303.757.9441 if you have any questions.





Colorado Register

2D

Official Publication of the State Administrative Rules (24-4-103(11) C.R.S.)

May 10, 2022 - Volume 45 , No. 9

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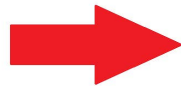
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- [Permanent Rules Adopted](#)
- [Emergency Rules Adopted](#)
- [Nonrulemaking public notices and other miscellaneous rulemaking notices](#)
- [Calendar of Hearings](#)

Notices of proposed rulemaking

Department	Agency	Proposed rules	Hearing
Department of Revenue	Taxation Division	SALES AND USE TAX	06/02/2022 10:00 AM
Department of Education	Colorado State Board of Education	ADMINISTRATION OF STATEWIDE ACCOUNTABILITY MEASURES FOR THE COLORADO PUBLIC SCHOOL SYSTEM, CHARTER SCHOOL INSTITUTE, PUBLIC SCHOOL DISTRICTS AND PUBLIC SCHOOLS	06/08/2022 09:00 AM
Department of Education	Colorado State Board of Education	RULES FOR THE ADMINISTRATION OF THE TRANSPORTATION RESOURCES FOR STUDENTS IN LOW PERFORMING SCHOOLS PROGRAM	06/08/2022 09:00 AM
Department of Transportation	High Performance Transportation Enterprise Board	RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS	06/15/2022 09:00 AM
Department of Regulatory Agencies	Division of Professions and Occupations - Colorado Podiatry Board	PODIATRY RULES AND REGULATIONS	06/03/2022 09:00 AM
Department of Public Health and Environment	Air Quality Control Commission	REGULATION NUMBER 22 COLORADO GREENHOUSE GAS REPORTING AND EMISSION REDUCTION REQUIREMENTS	07/21/2022 09:00 AM
Department of Public Health and Environment	Office Of Emergency Preparedness and Response	Community Disaster Behavioral Health Program	06/15/2022 10:00 AM
Department of Public Health and Environment	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Standard for Secure Transportation Services	06/15/2022 10:00 AM
Department of Labor and Employment	Division of Workers' Compensation	WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES	06/06/2022 10:00 AM
Department of Agriculture	Animal Health Division	CONTROL AND ERADICATION OF SCRAPIE IN SHEEP AND GOATS	05/31/2022 01:00 PM
Department of Agriculture	Inspection and Consumer Services Division	FERTILIZERS AND SOIL CONDITIONERS	05/31/2022 01:30 PM
Department of Agriculture	Inspection and Consumer Services Division	Rules Pertaining to the Confinement of Egg-Laying Hens	05/31/2022 02:00 PM
Department of	Medical Services	MEDICAL ASSISTANCE - STATEMENTS OF	06/10/2022 09:00 AM



Health Care Policy and Financing	Board (Volume 8; Medical Assistance, Children's Health Plan)	BASIS AND PURPOSE AND RULE HISTORY	
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	COUNTY RESPONSIBILITIES, STAFF TRAINING AND QUALIFICATIONS, CLIENT RIGHTS, CONFIDENTIALITY	06/03/2022 08:30 AM
Department of Human Services	Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND	06/03/2022 08:30 AM

Permanent Rules Adopted[Top](#)

Department	Agency	Rules adopted	AG opinion	Effective date
Department of Education	Colorado State Board of Education	1 CCR 301-8 RULES FOR THE ADMINISTRATION OF THE EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT (DOC)	04/26/2022	06/30/2022
Department of Natural Resources	Oil and Gas Conservation Commission	2 CCR 404-1 PRACTICE AND PROCEDURE 1 (DOCX) 2 CCR 404-1 PRACTICE AND PROCEDURE 2 (PDF)	04/26/2022	05/30/2022
Department of Regulatory Agencies	Division of Insurance	3 CCR 702-2 CORPORATE ISSUES (DOC)	04/18/2022	05/30/2022
Department of Regulatory Agencies	Division of Insurance	3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) (DOC)	04/18/2022	05/30/2022
Department of Regulatory Agencies	Division of Insurance	3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) (DOC)	04/18/2022	05/30/2022
Department of Regulatory Agencies	Division of Insurance	3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) (DOC)	04/18/2022	05/30/2022
Department of Regulatory Agencies	Division of Insurance	3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) (DOC)	04/18/2022	05/30/2022
Department of Regulatory Agencies	Division of Insurance	3 CCR 702-4 Series 4-6 LIFE, ACCIDENT AND HEALTH, Series 4-6 Group Health Insurance, Small Group Health Plans (DOC)	04/18/2022	05/30/2022
Department of Health Care Policy and Financing	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 1 (DOC) 10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 2 (DOC) 10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 3 (DOC) 10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 4 (DOC)	04/20/2022	05/30/2022
Department of Health Care Policy and Financing	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY (DOC)	04/20/2022	05/30/2022

Department of Human Services	Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	12 CCR 2516-1 RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND (DOCX)	04/28/2022	05/30/2022
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Emergency Rules Adopted[Top](#)

Department	Agency	Rules adopted	Justification	AG opinion	Effective date	Expiration date
Department of Health Care Policy and Financing	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 1 (DOC) 10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 2 (DOC)	EmergencyJustificationPathAttach2022-00191.pdf	04/20/2022	04/08/2022	08/06/2022

Non-Rulemaking Public Notices and Other Miscellaneous Rulemaking Notices[Top](#)

Department / Agency	Filed date	Notice
Department of Public Health and Environment	04/28/2022	Fiscal Year 2022 Intended Use Plans for the Water Pollution Control and Drinking Water Revolving Funds (Select Amendments for Bipartisan Infrastructure Law Funding) Administrative Action Hearing
Department of Health Care Policy and Financing	05/09/2022	Medicaid Fee-for-Service Reimbursement Rate Increases

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Agency	Rule	Hearing
Taxation Division	SALES AND USE TAX	06/02/2022 10:00 AM
Colorado State Board of Education	ADMINISTRATION OF STATEWIDE ACCOUNTABILITY MEASURES FOR THE COLORADO PUBLIC SCHOOL SYSTEM, CHARTER SCHOOL INSTITUTE, PUBLIC SCHOOL DISTRICTS AND PUBLIC SCHOOLS	06/08/2022 09:00 AM
Colorado State Board of Education	RULES FOR THE ADMINISTRATION OF THE TRANSPORTATION RESOURCES FOR STUDENTS IN LOW PERFORMING SCHOOLS PROGRAM	06/08/2022 09:00 AM
High Performance Transportation Enterprise Board	RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS	06/15/2022 09:00 AM
Division of Professions and Occupations - Colorado Podiatry Board	PODIATRY RULES AND REGULATIONS	06/03/2022 09:00 AM
Air Quality Control Commission	REGULATION NUMBER 22 COLORADO GREENHOUSE GAS REPORTING AND EMISSION REDUCTION REQUIREMENTS	07/21/2022 09:00 AM
Office Of Emergency Preparedness and Response	Community Disaster Behavioral Health Program	06/15/2022 10:00 AM
Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Standard for Secure Transportation Services	06/15/2022 10:00 AM
Division of Workers' Compensation	WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES	06/06/2022 10:00 AM
Animal Health Division	CONTROL AND ERADICATION OF SCRAPIE IN SHEEP AND GOATS	05/31/2022 01:00 PM

Register Details





Inspection and Consumer Services Division	FERTILIZERS AND SOIL CONDITIONERS	05/31/2022 01:30 PM
Inspection and Consumer Services Division	Rules Pertaining to the Confinement of Egg-Laying Hens	05/31/2022 02:00 PM
Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY	06/10/2022 09:00 AM
Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	COUNTY RESPONSIBILITIES, STAFF TRAINING AND QUALIFICATIONS, CLIENT RIGHTS, CONFIDENTIALITY	06/03/2022 08:30 AM
Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND	06/03/2022 08:30 AM

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Exhibit 3

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Submit Proposed Rule - Step 6 of 6

The following information must be submitted to DORA at the same time that the Notice of Rulemaking is filed with the Secretary of State.

Verify Rule Data And Submit for ReviewDepartment/Agency

Department: Department of Transportation
Rulemaking Agency: High Performance Transportation Enterprise

Proposed Rule Changes

Rule Type: Amended Rules
Title or Subject: RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS
Short Description: Proposed Changes to HPTE Rules
CCR Number: 2 CCR 606-1
Statutory Authority: C.R.S. §§ 43-4-806(2)(a)(1), 43-4-808(2)(b), 43-4-808(2)(d)(II) and 43-4-806(11)
Website for Current Agency Rules: <https://www.codot.gov/business/rules>
Subject Matter/Purpose: House Bill 22-1074 took effect in Colorado on March 15, 2022. The legislation added new traffic violations on the Interstate 70 Peak Period Shoulder Lanes. The legislation requires the HPTE to amend its rules to allow enforcement of these violations using its existing Administrative Toll Enforcement Process codified in 2 CCR 606-1. The proposed amendments also add language allowing for declaratory orders and make minor, non-substantive changes.
Colorado Register Publish Date: 05/10/2022
Text of Proposed Changes: [2 CCR 606-1 Rule to File Redline.pdf](#) (106K, Adobe Acrobat)
Submitted for Review:

Rulemaking Hearing

Hearing Date: Wednesday, June 15, 2022 09:00 am
Hearing Covers: Single Rule
Hearing Location: VIRTUAL HEARING ONLY 2829 W. Howard Place
 Denver, CO 80204
Hearing Notes: Registration link: <https://cdot.zoom.us/j/83884667227?pwd=OVUwMHZ4bkowZjBCN3NlVnNF0EVzZz09>

Contact Information

Public Contact Name: Sari Weichbrodt
Title: Rules, Policies, and Procedures Advisor
Email: dot_rules@state.co.us
Phone: 303-757-9441
Private Contact Name: Sari Weichbrodt
Title: Rules, Policies, and Procedures Advisor
Email: sari.weichbrodt@state.co.us
Phone: 773-597-8879

Subject Information

Related Subject Area(s): Transportation

ReviewRule Status

Current Status: Rule Submission in Progress
Submission: pending
DORA Regulatory Notice: pending
Public CBA Request: Currently accepting public requests
Public CBA Requests to date: [0](#)

STATE OF
COLORADO

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

Proposed Rule Submitted - Proposed Changes to HPTE Rules -

1 message

DORA_OPR_Website@state.co.us <DORA_OPR_Website@state.co.us>
To: sari.weichbrodt@state.co.us

Thu, Apr 28, 2022 at 12:53 PM


The following Proposed Rule has been submitted to the Colorado Office of Policy, Research and Regulatory Reform:




Department: Department of Transportation
Rulemaking Agency: High Performance Transportation Enterprise
Rule ID: 9308
Title or Subject: RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS
Submitted by: Sari Weichbrodt
Date Submitted: 04/28/2022

After your submission has been checked for completeness, it will be made available to the general public on DORA's website and email notifications will be sent to interested stakeholders.

In accordance with SB13-158, the public will have until Sunday, May 15th, 2022 at midnight to request that the Department of Regulatory Agencies require your agency to prepare a cost-benefit analysis of these rules or amendments. You will be copied on all stakeholder requests for a cost-benefit analysis and DORA staff will contact you to discuss the requests. A second email notification will be sent if you are required to submit a cost-benefit analysis as a result of a public request.

Please contact us at DORA_OPR_Website@state.co.us if you have further questions regarding this e-mail message.

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Submission Accepted

Rule Submitted

Your proposed rules or amendments to rules have been successfully submitted to the Department of Regulatory Agencies.

After your submission has been checked for completeness, it will be made available to the general public on DORA's website and email notifications will be sent to interested stakeholders. You will be copied on all stakeholder requests for a cost-benefit analysis and DORA staff will contact you to discuss any public requests.

You may log back in to this system at any time to check on the current status of this rule. An email notification containing further instructions will be sent if a cost-benefit analysis is required as a result of your submission.

Colorado Department of Regulatory Agencies

April 28, 2022 12:53 pm
Calling Procedure:
SB121_Submit_Rule.
Rule_Submitted
Version: 1.0

STATE OF
COLORADO

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

DORA Regulatory Notice: High Performance Transportation Enterprise - Proposed Changes to HPTE Rules -

1 message

3B

DORA_OPR_Website@state.co.us <DORA_OPR_Website@state.co.us>

Thu, Apr 28, 2022 at 5:30 PM

To: sari.weichbrodt@state.co.us

Dear Stakeholder:

The Department of Transportation - High Performance Transportation Enterprise will be holding a rulemaking hearing on Wednesday, June 15th, 2022, 9:00 am on rules regarding [Proposed Changes to HPTE Rules](#). The hearing will be held at: VIRTUAL HEARING ONLY [2829 W. Howard Place, Denver CO 80204](#).

The purpose of this rulemaking is:

House Bill 22-1074 took effect in Colorado on March 15, 2022. The legislation added new traffic violations on the Interstate 70 Peak Period Shoulder Lanes. The legislation requires the HPTE to amend its rules to allow enforcement of these violations using its existing Administrative Toll Enforcement Process codified in 2 CCR 606-1. The proposed amendments also add language allowing for declaratory orders and make minor, non-substantive changes.

If you believe there will be a significant negative impact on small business, job creation or economic competitiveness, you may [request that the Department of Regulatory Agencies require the rulemaking agency to prepare a cost-benefit analysis](#) of a proposed rule or amendment. This request must be made to the Department of Regulatory Agencies by Sunday, May 15th, 2022.

You may also [submit comments directly to the rulemaking agency](#) for the agency's consideration during the upcoming rulemaking hearing.

We hope this information is helpful to you. Thank you for taking the time to participate in the rulemaking process.

Brian Tobias
Director
Colorado Office of Policy, Research and Regulatory Reform

You have received this e-mail bulletin because you previously signed up for this service provided by the Department of Regulatory Agencies. If you do not want to receive further e-mails regarding the review of proposed rules, please visit https://www.dora.state.co.us/pls/real/SB121_Web.SignIn_Form and update your personal profile.

STATE OF
COLORADO

3C

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

No Public Cost-Benefit Analysis Request for Rule - Proposed Changes to HPTE Rules -

1 message

DORA_OPR_Website@state.co.us <DORA_OPR_Website@state.co.us>
To: sari.weichbrodt@state.co.us

Thu, May 19, 2022 at 7:45 PM

The deadline for public Cost-Benefit Analysis requests has passed for the following Proposed Rule:

Department: Department of Transportation
Rulemaking Agency: High Performance Transportation Enterprise
Rule ID: 9308
Title or Subject: RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS
Submitted by: Sari Weichbrodt
Date Submitted: 04/28/2022
Deadline for Public Cost-Benefit Analysis Request: May 15, 2022 11:59 pm

No public requests were received by the deadline. A Cost-Benefit Analysis is not required for this submission.

Please contact us at DORA_OPR_Website@state.co.us if you have further questions regarding this e-mail message.

Exhibit 4



COLORADO

Department of Transportation

2829 W. Howard Place
Denver, CO 80204-2305

Notice of Proposed Rulemaking

High Performance Transportation Enterprise Rules Governing the Administrative Toll Enforcement Process 2 CCR 606-1

Statement of Basis and Purpose and Statutory Authority

The rules governing the Administrative Toll Enforcement Process (“HPTE Rules”) are found at 2 CCR 606-1.

The specific authority under which the High Performance Transportation Enterprise (“HPTE”) shall establish these rules is set forth in §§ 43-4-806(2)(a)(1), 43-4-808(2)(b), 43-4-808(2)(d)(II) and 43-4-806(11), C.R.S.

The basis of the HPTE Rules is to establish and maintain an administrative enforcement process for toll violations on roads within the HPTE’s jurisdiction. The goal is for the HPTE to maintain an easily accessible and understandable toll enforcement hearing process.

House Bill 22-1074 took effect in Colorado on March 15, 2022. The legislation added new traffic violations on the Interstate 70 Peak Period Shoulder Lanes. The legislation requires the HPTE to amend its rules to allow enforcement of these violations using its existing Administrative Toll Enforcement Process codified in 2 CCR 606-1, Rules Governing the Administrative Toll Enforcement Process.

The specific purpose of this rulemaking is to consider additions to the HPTE Rules as follows:

- The HPTE proposes to add language at Rule 3.01.1.C to make it clear that swerving between Toll Lanes and General-Purpose Lanes (described as “weaving”) constitutes a failure to pay a Toll.
- The HPTE proposes to add language at Rule 3.01.2 to specify the uses of the Peak Period Shoulder Lane that constitute violations of Section 43-4-806(11), C.R.S. Specifically, it shall be a violation to use the Peak Period Shoulder Lane when the posted signage indicates it is closed, unless a statutory exception applies to the use, and at any time if the person is driving a motor vehicle with more than two axles or that has a length of 25 or more feet.
- The HPTE proposes to eliminate unnecessary language from Rule 4.01.
- The HPTE proposes to add Rule 6.02.3 to describe the statutory exceptions to use of the Peak Period Shoulder Lane when it is closed. These include operation of an authorized emergency vehicle, an authorized service vehicle, or use of the lane in case of an emergency. This addition renumbers the original Rule 6.02.3 to 6.02.4.
- Finally, the HPTE proposes to add Rule 9.01 to allow the HPTE Board to entertain petitions for declaratory orders in accordance with Section 24-4-105(11), C.R.S.
- There are additional minor, non-substantive changes proposed.



Exhibit 5

Rules Governing the Administrative Toll Enforcement Process

Number	2 CCR 606-1	5
Contact	Nick Farber	
Hearing Notice	Notice of 2 CCR 606-1 Rulemaking Hearing	
Statement of Basis and Purpose	2 CCR 606-1 Statement	
Proposed Rule	Proposed Rule Changes 2 CCR 606-1	
Virtual Hearing Date & Time	June 15, 2022 at 9:00 a.m. MT	
Virtual Hearing Registration	Register for 2 CCR 606-1 Hearing	
Hearing Exhibits	To be posted June 8, 2022	
Recording of Rulemaking Hearing		
Please submit written questions or comments to:	dot_rules@state.co.us	
Written Comments Closed April 7, 2022		

Virtual Public Hearing

Date	Time	Location	Virtual Registration
6/15/2022	9:00 a.m.	Virtual Only	Registration Link for Hearing to be posted soon

Contents

Edit

View

State: Published

Actions

Display

Manage portlets

a few seconds ago

Sharing

Invalidate Cloudflare

Sari Weichbrodt

Exhibit 6

An Act

HOUSE BILL 22-1074

BY REPRESENTATIVE(S) Amabile, Bernett, Bird, Exum, Gray, Hooton, Jodeh, Lindsay, McCluskie, McCormick, Roberts, Tipper, Woodrow; also SENATOR(S) Hisey, Bridges, Lee, Moreno, Rankin, Winter, Zenzinger.

CONCERNING CERTAIN TRAFFIC VIOLATIONS ON THE INTERSTATE 70 PEAK PERIOD SHOULDER LANES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 43-4-806, **add** (11) as follows:

43-4-806. High-performance transportation enterprise - creation - board - funds - powers and duties - limitations - reporting requirements - violations on the peak period shoulder lanes - legislative declaration - definitions. (11) (a) AS USED IN THIS SUBSECTION (11), UNLESS THE CONTEXT OTHERWISE REQUIRES, "PEAK PERIOD SHOULDER LANE" MEANS:

(I) THE EASTBOUND MANAGED TOLL LANE ON INTERSTATE 70 BETWEEN MILE MARKER 230 (EMPIRE JUNCTION) AND THE VETERANS

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

MEMORIAL TUNNEL; OR

(II) THE WESTBOUND MANAGED TOLL LANE ON INTERSTATE 70 BETWEEN THE VETERANS MEMORIAL TUNNEL AND MILE MARKER 230 (EMPIRE JUNCTION).

(b) (I) UNLESS A PERSON IS OPERATING AN AUTHORIZED EMERGENCY VEHICLE, AS DEFINED IN SECTION 42-1-102 (6), OR AN AUTHORIZED SERVICE VEHICLE, AS DEFINED IN SECTION 42-1-102 (7), OR USING A LANE IN THE CASE OF AN EMERGENCY, A PERSON SHALL NOT DRIVE ON THE PEAK PERIOD SHOULDER LANE WHEN THE POSTED SIGNAGE INDICATES THAT THE PEAK PERIOD SHOULDER LANE IS CLOSED.

(II) A PERSON SHALL NOT DRIVE ON A PEAK PERIOD SHOULDER LANE AT ANY TIME IF THE PERSON IS DRIVING A MOTOR VEHICLE WITH MORE THAN TWO AXLES OR THAT IS TWENTY-FIVE FEET IN LENGTH OR LONGER.

(c) THE TRANSPORTATION ENTERPRISE SHALL ENFORCE VIOLATIONS OF SUBSECTION (11)(b) OF THIS SECTION AND ASSESS AND REMIT CIVIL PENALTIES FOR THE VIOLATIONS IN ACCORDANCE WITH SECTION 43-4-808 (2).

SECTION 2. Effective date - applicability. This act takes effect August 1, 2022, and applies to violations committed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds,

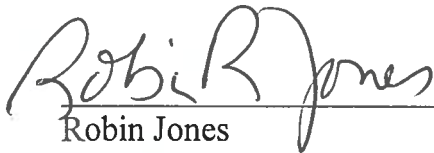
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED March 15, 2022 at 12:45 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

Exhibit 7

Organization	Contact	Email	Contacted	Position
Colorado Counties	Eric Bergman	ebergman@ccionline.org		
Colorado Munciple League	Megan MacKillop	mmackillop@cml.org		
Police Chief's Assoc	Sandra Solin	sandra@capitolsolutionsinc.com		
Arapahoe Basin Ski Area	Tony Cammarata	TonyC@A-Basin.net		
Clear Creek County	Amy Saxton	asaxton@co.clear-creek.co.us		
Clear Creek County	George Marlin: Commissioner	gmarlin@co.clear-creek.co.us		
Clear Creek County	Randy Wheelock: Commissioner	rwheelock@co.clear-creek.co.us		
Clear Creek County	Sean Wood: Commissioner	swood@co.clear-creek.co.us		
Clear Creek Fire Authority	Chief Kelly Babeon	kb@clearcreekfire.com		
Club 20 (not living in Summit Cnty)	Christian Reece	christian@club20.org		
Club 20 (not living in Summit Cnty)	Terri Binder	binderterri@hotmail.com		
Community of Keystone	Ken Riley	rileykenn@gmail.com		
Community of Keystone	Mark Mathews, Executive Director, Keystone Neighbourhood Co	mark@keystoneneighbourhood.com		
Dept. of Public Safety – CSP	Mike Honn	mike.honn@state.co.us		
Dept. of Public Safety – Division of Fire Prevention and Control	Cooper Reveley	cooper.reveley@state.co.us		
Distributors and sellers of fuel	Grier Bailey	gbailey@cwpmma.org		
FHWA	Spenser Tucker	spencer.tucker@dot.gov		
FHWA	Eva LaDow	eva.ladow@dot.gov		
I-70 Coalition	Margaret Bowes	mbowes@i70solutions.org		
Keystone Resort	Brendan McGuire, VP of Public Affairs	BMcguire@vailresorts.com		
Loveland Ski Area	Rob Goodell	rob.goodell@skiloveland.com		
Summit County	Bentley Henderson, Asst County Manager	Bentley.Henderson@summitcountyc o.gov		
Summit County	Elisabeth Lawrence: Commissioner	elisabeth.lawrence@summitcountyc o.gov		
Summit County	Tamara Pogue: Commissioner	tamara.pogue@summitcountyco.gov		
Summit County	Brent Spahn, Public Works	brent.spahn@summitcountyco.gov		

Summit Fire and EMS	Chief Travis Davis	tdavis@summitfire.org		
Town of Dillon	Adrienne Stuckey: Clerk	AdrienneS@townofdillon.com		
Town of Dillon	Carolyn Skowyra, Mayor	CSkowyra@townofdillon.com		
Town of Dillon	Nathan Johnson, Town Manager	NJohnson@townofdillon.com		
Town of Dillon	Scott O'Brien	SO'Brien@townofdillon.com		
Town of Georgetown	Kent Brown: Administrator	townadmin@townofgeorgetown.us		
Town of Silver Plume	Sam McCloskey - Mayor	mayor@silverplumeco.com; mayor@townofsilverplume.com		
Town of Silver Plume	Tammy Sanford: Clerk	clerk@silverplumeco.com ; clerk@townofsilverplume.com		
Town of Silverthorne	Anne-Marie Sandquist: Mayor	asandquist@silverthorne.org		
Town of Silverthorne	John Minor - Police Chief	jminor@silverthorne.org		
Town of Silverthorne	Ryan Hyland: Manager	ryan.hyland@silverthorne.org		
Colorado Motor Carriers Association	Tracy Sakaguchi	tracy@cmca.com		
City of Idaho Springs	Andrew Marsh	admin@idahospringsco.com		
Jefferson County	Steve Durian	sdurian@co.jefferson.co.us		
Town of Vail	Greg Hall	ghall@vailgov.com		



STATE OF
COLORADO

Rules - CDOT, DOT_ <dot_rules@state.co.us>

Notice of Rulemaking for 2 CCR 606-1 (Rules Governing the Administrative Toll Enforcement Process) - Written Comment Period is Open

7B

1 message

CDOT Rules <dot_rules@state.co.us>

Thu, Apr 28, 2022 at 1:28 PM

To: Sari Weichbrodt - CDOT <sari.weichbrodt@state.co.us>, Nicholas Farber - CDOT <nicholas.farber@state.co.us>, Simon Logan - CDOT <simon.logan@state.co.us>

Bcc: Stuart Commissioner - CDOT <commissioner.stuart@state.co.us>, cecil_gutierrez@yahoo.com, Don Stanton <skyblue07@comcast.net>, Eula Adams <adams.eula@gmail.com>, joel@joelnoble.net, Margaret Bowes <mbowes@i70solutions.org>, teaston@springsgov.com, Eric Bergman <ebergman@ccionline.org>, mmackillop@cml.org, Sandra Solin <sandra@capitolsolutionsinc.com>, TonyC@a-basin.net, asaxton@co.clear-creek.co.us, gmarlin@co.clear-creek.co.us, rwheelock@co.clear-creek.co.us, swood@co.clear-creek.co.us, kb@clearcreekfire.com, christian@club20.org, binderterri@hotmail.com, rileykenn@gmail.com, mark@keystoneneighbourhood.com, Mike Honn - CDPS <mike.honn@state.co.us>, cooper.reveley@state.co.us, Grier Bailey <gbailey@cwpm.org>, spencer.tucker@dot.gov, eva.ladow@dot.gov, BMcguire@vailresorts.com, rob.goodell@skiloveland.com, Bentley.Henderson@summitcountyco.gov, elisabeth.lawrence@summitcountyco.gov, tamara.pogue@summitcountyco.gov, brent.spahn@summitcountyco.gov, jberino@summitfire.org, AdrienneS@townofdillon.com, CSkowyr@townofdillon.com, NJohnson@townofdillon.com, SObrien@townofdillon.com, townadmin@townofgeorgetown.us, mayor@silverplumeco.com, clerk@silverplumeco.com, asandquist@silverthorne.org, jminor@silverthorne.org, Silverthorne Colorado <ryan.hyland@silverthorne.org>, tracy@cmca.com, admin@idahospringsco.com, sdurian@co.jefferson.co.us, ghall@vailgov.com, Herman Stockinger - CDOT <herman.stockinger@state.co.us>, George.Hypolite@coag.gov

Hello Stakeholder:

You have been identified as a stakeholder with interests and experience relevant to the High Performance Transportation Enterprise (HPTE) in Colorado (also known as the Colorado Transportation Investment Office or CTIO). This email serves as notification that the Colorado Department of Transportation (CDOT) filed a Notice of Proposed Rulemaking with the Colorado Secretary of State on behalf of the HPTE to consider changes to the Rules Governing the Administrative Toll Enforcement Process, 2 CCR 606-1, resulting from recently passed legislation.

A proposed permanent rulemaking hearing will be held on **June 15, 2022, at 9 am** at the HPTE Board meeting. House Bill 22-1074 created new violations for unauthorized use of the Peak Period Shoulder Lane on I-70 and granted the HPTE authority to enforce violations using its existing toll enforcement process. These proposed rule changes will allow for enforcement of the new violations. I have attached the notice of the hearing, the statement of basis, and the redline version of the proposed rule revisions for your reference in a single PDF document. A full description of the proposed changes can be found in the statement of basis.

The rulemaking hearing will only be conducted in a virtual setting. All interested and affected parties are urged to attend this public hearing by registering for the webinar [here](#). After registering, you will receive a confirmation email containing information about joining the webinar. You may also find the registration link for the virtual rulemaking hearing on [CDOT's website](#).

Please submit all written comments to dot_rules@state.co.us on or before **5:00 p.m. on June 7, 2022**. All comments received from stakeholders will be posted on [CDOT's Proposed Rules and Hearing Dates Webpage](#).

Please feel free to contact me at dot_rules@state.co.us if you have any questions or would like to be removed from our stakeholder list.

Thank you for participating in the rulemaking process.

Kind regards,
Sari

 **2 CCR 606-1 CombinedNOHStatementRule.pdf**
359K

Exhibit 8

STATE OF
COLORADO

8

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

Notice of Rulemaking for 2 CCR 606-1 (Rules Governing the Administrative Toll Enforcement Process) - Written Comment Period is Open

1 message

CDOT Rules <cdot_rules@state.co.us>

Thu, Apr 28, 2022 at 1:34 PM

To: Sari Weichbrodt - CDOT <sari.weichbrodt@state.co.us>, Nicholas Farber - CDOT <nicholas.farber@state.co.us>, Simon Logan - CDOT <simon.logan@state.co.us>

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This email serves as notification that the Colorado Department of Transportation (CDOT) filed a Notice of Proposed Rulemaking with the Colorado Secretary of State on behalf of the High Performance Transportation Enterprise (HPTE, also known as the Colorado Transportation Investment Office or CTIO) to consider changes to the Rules Governing the Administrative Toll Enforcement Process, 2 CCR 606-1, resulting from recently passed legislation.

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Thank you for participating in the rulemaking process.

Kind regards,
Sari

2 CCR 606-1 CombinedNOHStatementRule.pdf
359K

Exhibit 9



COLORADO
Department of Transportation

2829 W. Howard Place
Denver, CO 80204-2305

MEMORANDUM

To: Office of Policy and Government Relations

From: Sari Weichbrodt, Rules Advisor

Date: April 28, 2022

RE: **Permanent Records Retention of Rule File regarding 2 CCR 606-1: "Rules Governing the Administrative Toll Enforcement Process"**

Please establish an official rule making file for the Rule Making Process and Hearing pursuant to § 24-4-103(8.1), C.R.S. which requires that "an agency shall maintain an official rule-making record for each proposed rule for which a notice of proposed rule-making has been published in the Colorado register. Such rule-making record shall be maintained by the agency until all administrative and judicial review procedures have been completed pursuant to the provisions of this article. The rule-making record shall be available for public inspection."

For retention purposes, this file should be considered permanent.

Please contact me if you need additional information.

Sari Weichbrodt
303.757.9441
sari.weichbrodt@state.co.us



Exhibit 10

DEPARTMENT OF TRANSPORTATION

High Performance Transportation Enterprise Board

RULES GOVERNING THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS

2 CCR 606-1

Statement of Basis and Purpose and Statutory Authority

The High Performance Transportation Enterprise ("HPTE") is a type 1 board created pursuant to § 43-4-806(2)(a)(I), C.R.S., whose purpose is to pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects. Section 43-4-808(2)(b), C.R.S., grants the HPTE the authority to adopt rules pertaining to the enforcement of toll collection and provide a civil penalty for Toll Evasion for roads within the HPTE's jurisdiction. Section 43-4-808(2)(d)(II), C.R.S., provides authority to the HPTE to establish an administrative toll enforcement process and adopt rules creating such a process. The HPTE foresees an expansion of its managed lane network and recognizes the need for a formal administrative enforcement process for civil penalty collection. It is the intent of the HPTE to develop, based on the statutory requirements, an easily accessible, understandable toll enforcement hearing process.

1.00 Definitions

- 1.01 "Adjudication Fee" shall mean the fee assessed by the Administrative Hearing Officer and shall include costs arising from the cost of adjudication.
- 1.02 "Administrative Hearing Officer" shall mean an impartial person appointed by the HPTE or a Contractor on its behalf, to adjudicate Toll Evasion cases. The Administrative Hearing Officer may be an administrative law judge employed by the state or an independent contractor of the HPTE. The Administrative Hearing Officer shall have the same degree of independence granted to an administrative law judge employed by the state. § 43-4-808(2)(d)(IV), C.R.S.
- 1.03 "Automatic Vehicle Identification Photography" ("AVIP System") shall mean any photographic system which aids in the collection of Tolls and enforcement of toll violations. See § 43-4-408(2)(b), C.R.S.
- 1.04 "Certified Report" shall mean a report provided to the Department of Revenue, Division of Motor Vehicles either through certified letter, or through electronic file transfer pursuant to a protocol established by HPTE and Department of Revenue.
- 1.05 "Civil Penalty" shall mean the amounts assessed for Toll Evasion, including amounts assessed for late payment, established by the HPTE subject to any limits imposed by § 43-4-808(2)(b) and (c)(I), C.R.S. The Civil Penalty established by the HPTE Board for any Toll Evasion, shall be no less than \$10 nor more than \$250 per toll statement or per Civil Penalty Assessment if assessed by a Peace Officer. The Civil Penalty excludes the Adjudication Fee assessed by an Administrative Hearing Officer.
- 1.06 "Contractor" shall mean any public or private entity with which HPTE contracts to manage user accounts, billing functions and processing Toll Evasions through a Toll Account or other means.
- 1.07 "HPTE" for purposes of these Rules shall mean the Colorado High Performance Transportation Enterprise Board created by § 43-4-806(2)(a)(I), C.R.S.

- 1.08 "Toll Statement" shall mean an invoice for a Responsible Party reflecting Toll usage for such Responsible Party over a specific period of time generated by the AVIP System or other electronic device that will constitute the amount of the Tolls due and payable by such Responsible Party, plus any additional Civil Penalties. See § 43-4-808(2)(b), C.R.S.
- 1.09 "Notice of Civil Penalty Assessment" or "Notice" shall mean an assessment for Toll Evasion against the Person operating the vehicle if issued by a Peace Officer or against a Responsible Party if resulting from an AVIP System or other electronic means.
- 1.10 "Peace Officer" shall mean a person as described in § 16-2.5-101, C.R.S., including Colorado state troopers, officers of the ports, peace officers assigned to specific jurisdictions, and local law enforcement officers authorized to issue Notice of Civil Penalty Assessments for Toll Evasion.
- 1.11 "Person" shall mean the Person operating the vehicle at the time a Toll is incurred and to whom a Peace Officer may issue a Notice of Civil Penalty Assessment.
- 1.12 "Responsible Party" shall mean the registered owner of the vehicle who, based on their status as the registered owner of such vehicle, will be presumed to have given authority, express or implied, to the operator of the vehicle at the time a Toll is incurred and who will be presumed responsible for the payment of the Toll and any related Civil Penalty. If a Notice of Civil Penalty Assessment results from an AVIP System or other electronic means, the Responsible Party shall be liable for payment.
- 1.13 "Toll" shall mean the user fee established by the HPTE from time to time and paid to the HPTE or its Contractor on its behalf for the privilege of using surface transportation infrastructure, including managed lanes. The Toll may include a different rate which shall be established by the HPTE depending upon the method of collection. The Toll shall not include any Civil Penalty or Adjudication Fee.
- 1.14 "Toll Account" shall mean a user agreement with a Contractor establishing an account for payment of Tolls through the use of a Transponder, or other HPTE-approved device or method.
- 1.15 "Toll Evasion" shall have the meaning set forth in Rule 3.01.
- 1.16 "Transponder" means the electronic toll recording device linked to a Toll Account or another payment system approved by the HPTE by which payments of tolls may be imposed.

2.00 Administrative Toll Enforcement Process

- 2.01 Pursuant to § 43-4-808(2)(d)(II), C.R.S., at the request of the judicial department, the transportation enterprise may establish an administrative toll enforcement process.
- 2.02 Pursuant to § 43-4-808 (2)(d)(IV), C.R.S., the HPTE may enter into contracts for adjudication of the toll enforcement process.
- 2.03 The Administrative Hearing Officer shall have exclusive jurisdiction over the administrative toll enforcement process. See § 43-4-808(2)(d)(II), C.R.S.
- 2.04 The HPTE or a Contractor on its behalf shall retain one or more Administrative Hearing Officer(s). See § 43-4-808(2)(b), C.R.S.

3.00 Toll Evasion

- 3.01 Toll Evasion may result from actions of the Responsible Party or Person, including but not limited to:

3.01.1 Failing to pay a Toll or Avoiding a Toll:

- A. For which a statement has been sent, within the time set forth in the statement; or
- B. For which a Civil Penalty has been assessed, within the time required; or
- C. By entering or exiting the Toll Lane other than at a designated access/egress point, and/or swerving between Toll Lanes and General-Purpose Lanes ("Weaving").

3.01.2 Using a Toll Lane:

- A. Without having complied with such other requirements established by HPTE to record or exempt a vehicle from Tolls; or
- B. Having obfuscated, altered or obliterated a license plate or maintained a license plate in violation of § 42-3-202(2)(b), C.R.S., or while travelling without a license plate; or
- C. Tampering with or failing to properly set a Transponder or other electronic device required by HPTE to record or exempt a vehicle from Tolls, so as to cause it to not operate as intended; or
- D. Using the Peak Period Shoulder Lane, as defined in § 43-4-806(11)(a), C.R.S., when the posted signage indicated the Peak Period Shoulder Lane is closed, except as otherwise allowed in §43-4-806(11)(b)(I), C.R.S.; or
- E. Using a Peak Period Shoulder Lane, as defined in § 43-4-806(11)(a), C.R.S., at any time if the person is driving a motor vehicle with more than two (2) axles or that is twenty-five feet (25 ft.) in length or longer; or
- F. In any prohibited fashion as proscribed by § 43-4-806, C.R.S. or other applicable Colorado law.

3.02 The HPTE shall establish the Civil Penalty for Toll Evasion within the limits set forth in statute. The HPTE shall adopt by resolution a Civil Penalty structure for Toll Evasion.

4.00 Notice of Civil Penalty Assessment and Request for Hearing

4.01 A Notice of Civil Penalty Assessment may be issued to the Person operating the motor vehicle involved in a Toll Evasion by a Peace Officer, or ~~may it may result from an unpaid Toll or Toll Statement~~ issued as a result of an AVIP System or other electronic means and sent to the Responsible Party by mail. See § 43-4-808(2)(c)(II) and 43-4-808(2)(f)(I), C.R.S.

4.02 Determination of the time frames for the Notice of Civil Penalty Assessment shall be based on calendar days.

4.03 Notice of Civil Penalty Assessment Sent by Mail Pursuant to §43-4-808(2)(f)(I), C.R.S.

4.03.1 A Notice of Civil Penalty Assessment issued in the instance of Toll Evasion resulting from an AVIP System or other electronic means may be sent to the Responsible Party by first-class mail, or by any mail delivery service offered by an entity other than the United States Postal Service that is equivalent to or superior to first-class mail, or by other means as provided by § 24-4-105(2)(a), C.R.S.

4.03.2 The Notice of Civil Penalty Assessment shall contain:

- A. The name of the Responsible Party;
- B. The address of the Responsible Party;
- C. The license plate number of the vehicle involved;
- D. The date of the Notice;
- E. The date and time of the event(s) that gave rise to the Toll Evasion;
- F. The location of the event(s) that gave rise to the Toll Evasion;
- G. The amount of the Civil Penalty;
- H. A place for the Responsible Party to execute a signed acknowledgment of liability for the cited Toll Evasion; and
- I. Such other information as may be required by law to constitute the Notice of Civil Penalty Assessment as a complaint to appear for adjudication of a Civil Penalty for Toll Evasion if the Toll and Civil Penalty is not paid within thirty (30) days of the date of the Notice of Civil Penalty Assessment. See § 43-4-808(2)(f)(I), C.R.S.
- J. The method and procedure by which a Responsible Party may file an answer.
- K. The method by which a Responsible Party may pay the Notice of Civil Penalty Assessment. If a Notice of Civil Penalty Assessment results from an AVIP System or other electronic means, the Responsible Party shall pay the Civil Penalty either:
 - (1) In person at the location designated by the HPTE or Contractor on its behalf; or
 - (2) By postmarking the payment within twenty days of the Notice; or
 - (3) By other electronic means approved by the HPTE or a Contractor on its behalf.

4.04 Notice of Civil Penalty Assessment Issued by a Peace Officer pursuant to § 43-4-808(2)(c)(I), C.R.S.

4.04.1 Any Peace Officer is authorized to issue a Notice of Civil Penalty Assessment for Toll Evasions. See § 43-4-808(2)(c)(I), C.R.S.

4.04.2 A Notice of Civil Penalty Assessment issued by a Peace Officer shall contain:

- A. The name of the Person operating the motor vehicle;
- B. The address of the Person operating the motor vehicle;
- C. The license plate number of the motor vehicle involved;
- D. The driver's license number of the Person operating the motor vehicle involved in the Toll Evasion;

- E. The nature of the Toll Evasion;
- F. The amount of Civil Penalty prescribed for the Toll Evasion;
- G. The date of the Notice;
- H. A place for the Person to execute a signed acknowledgement of person's receipt of the Notice of Civil Penalty Assessment; and
- I. A place for the Person to execute a signed acknowledgement of liability for the cited Toll Evasion, to be executed at the time the Person cited pays the Civil Penalty.
- J. Such other information as may be required by law to constitute the Notice and complaint to appear for adjudication if the Civil Penalty is not paid within twenty days of the date of the Notice. See § 43-4-808(2)(c)(II), C.R.S.
- K. The method and procedure by which the Person may file an answer.
- L. A statement that if the Person cited does not pay the prescribed Civil Penalty within twenty (20) days of the Notice, the Notice shall constitute a complaint to appear for adjudication of a Toll Evasion, and the Person cited shall, within the time specified in the Notice, file an answer to the complaint in the manner specified.
- M. A statement that failure to contest the alleged violations in the manner and time provided shall be deemed an admission of liability and that a final order of liability may be entered against the Person. See § 43-4-808(2)(f)(I), C.R.S.
- N. A statement that the Person cited shall pay the Civil Penalty either:
 - (1) In person at the location designated by the HPTE or a Contractor on its behalf; or
 - (2) By postmarking the payment within twenty (20) days of the Notice, or
 - (3) By other electronic means approved by the HPTE or a Contractor on its behalf. See § 43-4-808(2)(c)(IV), C.R.S.

5.00 Answer and Request for Hearing or Failure to Request a Hearing

- 5.01 Upon receipt of a timely request for a hearing from the Responsible Party, the HPTE or a Contractor on its behalf, shall set the matter for a hearing before an Administrative Hearing Officer and provide sufficient notice to the Responsible Party or Person of the date, time and place of the hearing as stated in § 24-4-105(2)(a), C.R.S., at least thirty (30) days prior to the hearing.
- 5.02 Time Frame for Filing Answer and Request for Hearing where Notice of Civil Penalty Assessment is provided by an AVIP System or other electronic means pursuant to § 43-4-808(2)(f)(I), C.R.S.
 - 5.02.1 If the Responsible Party does not pay the prescribed Toll and/or Civil Penalty within thirty (30) days of the date of the Notice of Civil Penalty Assessment, the Notice shall constitute a complaint to appear for adjudication of a Toll Evasion in an administrative Toll enforcement proceeding.
 - 5.02.2 The Responsible Party shall, within the time specified in the Notice of Civil Penalty Assessment, file an answer to the complaint in the manner specified in such Notice.

5.02.3 If the Responsible Party fails to pay in full the outstanding Toll and/or Civil Penalty as set forth in the notice or to appeal and answer the complaint and request a hearing as specified in the notice, a final order of liability shall be entered against the Responsible Party for purpose of enabling the Responsible Party to appeal the final order of the Administrative Hearing Officer pursuant to Rule 7.07 hereof and allow the HPTE or a Contractor on its behalf, to proceed to judgment.

5.03 Time Frame for Filing Answer and Request for Hearing where the Notice of Civil Penalty Assessment is provided by a Peace Officer pursuant to § 43-4-808(2)(c)(III) and (IV), C.R.S.

5.03.1 If the Person cited does not pay the prescribed Civil Penalty within twenty (20) days of the Notice, the Notice of Civil Penalty Assessment shall constitute a complaint to appear for adjudication of a Toll Evasion and the Person cited shall, within the time specified in the Notice of Civil Penalty Assessment, file an answer to the complaint in the manner specified in such notice.

5.03.2 The acknowledgement of liability shall be executed at the time the Person cited pays the prescribed Civil Penalty.

6.00 Presumptions of Liability for Toll Evasion

6.01 Presumption Regarding the Registered Owner of a Vehicle. The Responsible Party shall be presumed liable for the Toll and Civil Penalty imposed by the HPTE or a Contractor on its behalf. See § 43-4-808(2)(f)(I), C.R.S.

6.02 The Responsible Party involved in a Toll Evasion violation may rebut the presumption of liability for the violation by proving by a preponderance of the evidence that:

6.02.1 The owner sold or otherwise transferred ownership of the vehicle to another person before the date of the violation as evidenced by a bill of sale or similar document; or

6.02.2 The owner did not have custody and control of the vehicle at the time of the violation due to theft as evidenced by a report to a law enforcement agency; or

6.02.3 The person operating the vehicle in the Peak Period Shoulder Lane was operating an authorized emergency vehicle, as defined in §42-1-102(6), C.R.S., or an authorized service vehicle, as defined in §42-1-102(7), C.R.S., or was using the lane in the case of an emergency; or

6.02.4 Other rights or defenses available under applicable law.

6.03 Liability Regarding the Owner of a Motor Vehicle Engaged in the Business of Leasing or Renting Motor Vehicles.

6.03.1 The owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a Toll Evasion violation Civil Penalty; except that, at the discretion of such owner:

A. The owner may obtain payment for a Toll Evasion violation Civil Penalty from the person or company who leased or rented the vehicle at the time of the Toll Evasion through a credit or debit card payment and forward the payment to the HPTE or a Contractor on its behalf; or

B. The owner may seek to avoid liability for a Toll Evasion violation Civil Penalty if the owner of the leased or rented motor vehicle can furnish sufficient evidence that,

at the time of the Toll Evasion violation, the vehicle was leased or rented to another person.

- 6.03.2 To avoid liability for payment, the owner of the motor vehicle shall, within thirty (30) days after receipt of the Notice of Civil Penalty Assessment, furnish to the HPTE or a Contractor on its behalf an affidavit containing the name, address, and state driver's license number of the person or company who leased or rented the vehicle.

7.00 Administrative Adjudication Proceeding

7.01 General Provisions

- 7.01.1 Upon receipt of a request, the HPTE or a Contractor on its behalf shall set the matter for a hearing before an Administrative Hearing Officer.
- 7.01.2 The HPTE or a Contractor on its behalf shall establish and maintain hearing facilities for the conduct of Toll enforcement hearings, which shall be in the form of an administrative adjudication proceeding.
- 7.01.3 The Responsible Party or Person shall be the respondent to the complaint.

7.02 Conduct of Hearing

- 7.02.1 The Administrative Hearing Officer shall preside over the hearing and shall have all powers under the State Administrative Procedure Act set forth in § 24-4-105, C.R.S., except that for purposes of these Rules, the decision of the Administrative Hearing Officer shall be a Final Order and may not be appealed to the HPTE.
- 7.02.2 The State Administrative Procedure Act, § 24-4-105, C.R.S., shall apply to the administrative adjudication proceeding. In the case of a conflict between the requirements of § 43-4-808, C.R.S., and § 24-4-105, C.R.S., § 43-4-808, C.R.S., shall apply.
- 7.02.3 The standard of review shall be by a preponderance of the evidence.
- 7.02.4 With regard to § 24-4-105(8), C.R.S., the Administrative Hearing Officer may take notice of the scientific principles underlying technology utilized by the HPTE or the Contractor on its behalf, to produce automatic vehicle identification imagery, the foundation of which may be presumed, subject to rebuttal by a preponderance of the evidence.
- 7.02.5 The Responsible Party may view automatic vehicle identification imagery evidence by appointment with the HPTE or a Contractor on its behalf, on a date prior to that of the hearing at a time and location designated by the Administrative Hearing Officer.

7.03 Continuances

- 7.03.1 The Responsible Party or Person, or their legal representative shall have right to one (1) continuance to seek representation by legal counsel.
- 7.03.2 Either party shall have the right to a continuance due to disruption of an automated or electronic adjudicatory file or processing system.

7.04 Failure to Appear

7.04.1 If a Responsible Party or Person who has answered and requested a hearing fails to appear at the hearing as originally set or as continued by the Administrative Hearing Officer, upon satisfaction that notice of the hearing was given by the HPTE or a Contractor on its behalf, to the Responsible Party or Person, the Responsible Party or Person will be deemed to have admitted liability and have waived the right to a hearing.

7.04.2 In this case, a final order of liability in default for Civil Penalty and Adjudication Fee, if any, may be entered against the Responsible Party or Person.

7.05 Decision of the Administrative Hearing Officer a Final Order

7.05.1 The Administrative Hearing Officer shall make a finding as to whether the Responsible Party or Person is liable for a Civil Penalty and, if applicable, an Adjudication Fee, and render a decision in the form of an Administrative Hearing Officer's final order.

7.05.2 The Administrative Hearing Officer may enter default against the Responsible Party or Person in a final order.

7.05.3 The Administrative Hearing Officer, upon the entry of default, shall find:

A. That the Notice of Civil Penalty Assessment was provided to the Responsible Party or Person; and

B. The Responsible Party or Person was provided with notice of the opportunity to appear at a hearing; and

C. The Notice was sent to the Responsible Party's or Person's last known address based on the vehicle records of the Department of Revenue, Division of Motor Vehicles, or the last known address for the Responsible Party or Person which the HPTE or Contractor on its behalf, has obtained during the course of the toll enforcement process.

7.05.4 A decision by the Administrative Hearing Officer of liability or no liability for the Toll and Civil Penalty shall be final for purposes of the administrative adjudication process.

7.05.5 The decision of the Administrative Hearing Officer shall be final and binding upon the parties. The Final Order may not be appealed to the HPTE pursuant to § 24-4-105(14)(a), C.R.S.

7.06 Payment of Decision of Administrative Hearing Officer

7.06.1 A Responsible Party or Person shall pay the amount set forth in a final order within thirty (30) days of the effective date.

7.07 Appeal of Administrative Hearing Officer's Final Order

7.07.1 The administrative adjudication of a Toll Evasion is subject to judicial review and may be appealed as to matters of law and fact to the county court for the county in which the violation occurred. See § 43-4-808 (2)(d)(VI), C.R.S.

7.07.2 The Administrative Hearing Officer's final order may be appealed within thirty (30) days of the effective date.

7.07.3 The county court shall conduct a de novo review upon appeal. See § 43-4-808 (2)(d)(VI), C.R.S.

- 7.07.4 The HPTE or a Contractor on its behalf may certify the record on appeal by filing a certified copy of the order imposing a Toll and Civil Penalty that is entered by the Administrative Hearing Officer with the clerk of the county court in the county in which the violation occurred at any time after the order is entered. See § 43-4-808 (2)(d)(V), C.R.S.
- 7.07.5 The clerk shall record the order in the judgment book of the court and enter it in the judgment docket. See § 43-4-808 (2)(d)(V), C.R.S.
- 7.07.6 The order shall thenceforth have the effect of a judgment of the county court and execution may issue on the order of the court as in other cases. See § 43-4-808 (2)(d)(V), C.R.S.

7.08 Remedies

- 7.08.1 Notwithstanding the specific remedies provided by § 43-4-808, C.R.S., the HPTE shall have every legal remedy available to enforce unpaid Tolls and Civil Penalties as debts owed to the HPTE. See § 43-4-808(2)(d)(VII), C.R.S.
- 7.08.2 The HPTE or a Contractor on its behalf may report to the Department of Revenue any outstanding judgment or warrant or any failure to pay the Toll or Civil Penalty for any Toll Evasion, including any Adjudication Fee imposed by an Administrative Hearing Officer. See § 43-4-808(2)(g), C.R.S.
- 7.08.3 Neither the existence nor utilization of an administrative toll enforcement procedure nor these rules shall be construed to limit the HPTE's or a Contractor's rights or remedies available under the law.

8.00 Department of Revenue Action

- 8.01 The HPTE or a Contractor on its behalf as stated in § 43-4-808(2)(g), C.R.S., may report to the Department of Revenue any outstanding judgment or warrant or any failure to pay the Toll or Civil Penalty for any Toll Evasion.
- 8.02 Upon receipt of a certified report from the HPTE or its Contractor on its behalf, stating that the owner of a registered vehicle has failed to pay a Toll or Civil Penalty including any Adjudication Fees imposed by an Administrative Hearing Officer, resulting from a final order, the Department of Revenue shall not renew the registration of the vehicle until the Toll and Civil Penalty are paid in full. See § 43-4-808(2)(g), C.R.S.
- 8.03 A Certified Report from the HPTE shall be provided to the Department of Revenue upon the owner successfully paying in full a Toll or Civil Penalty releasing the non-renewal of the owner's vehicle.
- 8.04 The Department of Revenue has no authority to assess any points against a driver's license under § 42-2-127, C.R.S., upon entry of a conviction or judgment for any Toll Evasion.

9.00 Declaratory Orders

- 9.01 The HPTE may, at its discretion, entertain petitions for declaratory orders pursuant to § 24-4-105(11), C.R.S.