

**DEPARTMENT OF REVENUE**

**Division of Motor Vehicles**

**VEHICLE SERVICES SECTION**

**1 CCR 204-28**

**RULES FOR ESTABLISHING AND REGULATING THE USE OF HOV/HOT LANES  
FOR CERTAIN HYBRID VEHICLES**

**1.0. Statement of Purpose**

The Colorado Department of Transportation intends to implement a program that allows owners of qualifying Hybrid Vehicles to apply for a permit to use High Occupancy Vehicle (“HOV”) lanes and High Occupancy Toll (“HOT”) lanes through September 30, 2009 unless federal authorization of Hybrid Vehicle use of HOV and HOT lanes is extended. Federal law currently authorizes use of HOV lanes by qualifying low emission and energy efficient vehicles through September 30, 2009, unless federal authorization of Hybrid Vehicles use of HOV and HOT lanes is extended. The following rules are for identification of Hybrid Vehicles that may use HOV and HOT lane facilities in Colorado as qualifying Hybrid Vehicles and stating the terms of such use.

**2.0. Statement of Basis and Specific Statutory Authority**

These rules are adopted pursuant to the authority contained in section 42-4-1012 of the Colorado Revised Statutes, and specifically pursuant to section 42-1-204 of the Colorado Revised Statutes. The purpose of these rules is to adopt necessary provisions and uniform procedures to allow the use of HOV and HOT lanes by qualifying Hybrid Vehicles. The Statement of Basis and Specific Statutory Authority, and Statement of Purpose for the rules are hereby incorporated by this reference and made part of these rules.

**3.0 Definitions**

As used in these rules, unless the context otherwise requires:

3.1 “Alternative Fuel,” as defined under these rules, means compressed natural gas, propane, ethanol, electricity or any other fuel, but excludes those fuels made, in part or in whole, from petroleum products.

3.2 “Alternative Fuel Vehicles” are vehicles propelled with a fuel derived solely from resources other than petroleum. No part of an alternative fuel vehicle, as defined under these rules, may be propelled by petroleum products.

3.3 “Department of Transportation” is the Colorado Department of Transportation, its departments and divisions, and includes the Colorado Tolling Enterprise.

~~3.4 “Hybrid Vehicle(s)” are light duty vehicles and light duty trucks up to 8500 lbs. Gross Vehicle Weight Rating (“GVWR”). GVWR must be certified by the U.S. Environmental Protection Agency as meeting the criteria of either paragraph 3.4.1 or 3.4.2 of this section:~~

~~3.4.1 It is an alternative fuel vehicle meeting the low emission standards set forth in subsection 3.4.2.1 below;~~

~~3.4.2 It meets the following criteria in this paragraph:~~

~~3.4.2.1 It must be certified by the U.S. Environmental Protection Agency as low emission vehicles meeting emission standards that are as or more stringent than the tier 2 bin 5 emission standards as defined in Table S04-1 of 40 CFR 86.1811-04; and~~

~~3.4.2.2 The unadjusted city fuel economy of the vehicle must be at least 50 percent higher than the city fuel economy of a comparable gasoline-fueled vehicle as determined under 40 CFR 600.207-93; or~~

~~3.4.2.3 The unadjusted combined city-highway fuel economy of the vehicle must be at least 25 percent higher than the unadjusted combined city-highway fuel economy of a comparable gasoline-fueled vehicle as determined under 40 CFR 600.207-93; or~~

~~3.4.2.4 For Hybrid Vehicles with no similar gasoline counterpart, the Department of Transportation will determine the candidate vehicles by calculating the median unadjusted city fuel economy values for all gasoline vehicles in the same comparable vehicle class as defined in the U.S. Environmental Protection Agency’s annual Fuel Economy Guide, jointly published by the U.S. Environmental Protection Agency and the U.S. Department of Energy. The Department of Transportation will compare the unadjusted city fuel economy value of the candidate Hybrid Vehicle, as determined under 40 CFR 600.207-93, to the median unadjusted city fuel economy for the comparison vehicle in the same vehicle class.~~

#### **4.0 Identification of Hybrid Vehicles**

~~4.1 The Department of Transportation shall make available a circular sticker or decal at least four inches in diameter, made of bright orange reflective material, to be affixed either to the windshield, to the front of the side-view mirror on the driver’s side, or to the front bumper of the vehicle, that clearly distinguishes the Hybrid Vehicles as defined by these rules, from other vehicles. Stickers may not be sold, assigned, used or moved to a vehicle other than the original Hybrid Vehicle to which the sticker was assigned. Upon transfer of title of the original Hybrid Vehicle to another owner, the sticker must be removed from the vehicle.~~

~~4.2 The Department of Transportation shall make available transponders as part~~

~~of the automatic vehicle identification system utilized for HOT lanes. The transponders shall identify Hybrid Vehicles qualifying for use under these rules as part of the automatic vehicle identification system. Transponders may not be sold, assigned, used or moved to a vehicle other than the original Hybrid Vehicle to which the transponder was assigned. Upon transfer of title of the original Hybrid Vehicle to another owner, the transponder must be surrendered to the Department of Transportation.~~

~~4.3 The Department of Transportation shall publish and maintain a listing of all Hybrid Vehicle makes and models eligible for participation in the programs described in these rules. A list of the eligible Hybrid Vehicle makes and models qualifying under these rules is available at [www.dot.state.co.us/hybrids](http://www.dot.state.co.us/hybrids) after the effective date of this rule.~~

## **~~5.0 Permitting of Hybrid Vehicles~~**

~~5.1 The owner of a Hybrid Vehicle, as defined under these rules, shall qualify for use of HOV and HOT lanes upon application and receipt of a sticker, a valid permit and transponder from the Department of Transportation.~~

~~5.2 The Department of Transportation shall issue permits and the associated stickers and transponders that clearly distinguish the Hybrid Vehicles identified as qualifying Hybrid Vehicles under these rules to the first 2000 qualifying applications as set forth in subparagraph 5.3.~~

~~5.3 The owner of a Hybrid Vehicle must submit an application, approved and issued by the Department of Transportation that contains the Hybrid Vehicle owner's name, the license plate number, the vehicle identification number of the Hybrid Vehicle and the Hybrid Vehicle make and year model as a condition to obtaining a permit, an identifying sticker and a transponder that allows for the use of qualifying Hybrid Vehicles in HOV and HOT lanes. The application must also include a deposit of a valid credit card or debit card by the registered owner of the Hybrid Vehicle. The credit card or debit card may be utilized to implement tolling upon Hybrid Vehicles in the event degradation of service occurs in HOV and HOT lanes.~~

~~5.4 Upon a determination by the Department of Transportation that permitting of additional qualifying Hybrid Vehicles will not result in the degradation of service in the HOV and HOT lanes, the Department of Transportation may make additional permits available to Hybrid Vehicles qualifying under these rules.~~

## **~~6.0 Duration of Program~~**

~~6.1 The program allowing use of HOV and HOT lanes, by Hybrid Vehicles qualifying for use under these rules, shall operate from the adoption of these rules and terminate on September 30, 2009, unless federal authorization of Hybrid Vehicle use of HOV and HOT lanes is extended.~~

~~6.2 Upon termination of this program, all current permittees will be required to surrender any outstanding permits to the Department of Transportation and remove identifying stickers from their vehicles. Upon termination of this program,~~

~~transponders issued to previously qualifying Hybrid Vehicles shall either be surrendered to CDOT or converted to revenue transponders for qualifying use of HOT lanes. No Hybrid Vehicles previously qualifying for use of HOV and HOT lanes under these rules shall be authorized to continue use of HOV and HOT lanes unless otherwise compliant with requirements for HOV and HOT lane use.~~

## **~~7.0 Priority of Vehicles~~**

~~7.1 The Department of Transportation shall restrict access of qualifying Hybrid Vehicles to HOV and HOT lanes, or portions of those lanes, during periods of peak congestion, following findings by the Department of Transportation as follows:~~

~~7.1.1 The lane or portion thereof has degraded below a level of service that is required to be maintained for on-time bus performance for the North I-25 facility as agreed with the Regional Transportation District or a level of service C on other facilities;~~

~~7.1.2 The operation or projected operation of the qualifying Hybrid Vehicles in these lanes, or portions thereof, will significantly increase congestion.~~

~~7.2 The Department of Transportation shall reduce congestion by excluding qualifying Hybrid Vehicles during periods of peak congestion or by charging qualifying Hybrid Vehicle users of HOV and HOT lanes, not otherwise qualifying for use of such lanes, a toll through use of the credit card or debit card on file for issuance of a transponder. The toll amount shall be determined by the Department of Transportation.~~

~~7.3 The Department of Transportation may also reduce congestion by other means, including, but not limited to:~~

~~7.3.1 Reducing the use of the HOV and HOT lanes by non-eligible or nonconforming vehicles;~~

~~7.3.2 Increasing the toll amounts charged to users of the HOT lanes;~~

~~7.3.3 Any combination of the above as determined necessary and appropriate by the Department of Transportation.~~

~~7.4 The Department of Transportation shall provide advance notification to qualifying Hybrid Vehicles prior to excluding qualifying Hybrid Vehicles from the HOV and HOT lanes during periods of peak congestion or prior to charging qualifying Hybrid Vehicles a toll due to degraded operation of the lanes.~~

## **~~8.0 Notice and Hearing Requirements~~**

~~Any denial, suspension, or revocation of the permits as authorized or required by these rules, excepting the termination of the project as set forth in section 6.0, shall be subject to the applicable notice and hearing provisions of sections 24-4-104 and 24-4-105, C.R.S. of the Administrative Procedures Act.~~