

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 274.00: TRANSPORTATION NETWORK COMPANY OVERSIGHT

Section

- 274.01: Purpose and Scope
- 274.02: Definitions
- 274.03: Transportation Network Company Permit Process
- 274.04: Transportation Network Driver Requirements
- 274.05: Transportation Network Driver Certification Process
- 274.06: Transportation Network Driver Background Check
- 274.07: Hours of Service
- 274.08: Transportation Network Vehicle Requirements
- 274.09: Insurance
- 274.10: Pre-arranged Rides
- 274.11: Record Maintenance and Retention
- 274.12: Reporting Requirements
- 274.13: Inspection and Audit
- 274.14: Fares & Rates
- 274.15: Policy Development
- 274.16: Notice
- 274.17: Third-party Contractors
- 274.18: Agent of Service
- 274.19: Variance
- 274.20: Severability

274.01: Purpose and Scope

(1) Purpose. In furtherance of the public interest, safety, and convenience, 220 CMR 274.00 establishes rules and regulations governing the oversight of Transportation Network Companies and the provision of Transportation Network Services within the Commonwealth.

(2) Scope. 220 CMR 274.00 applies to every Transportation Network Company, Transportation Network Driver, and Transportation Network Vehicle within the Commonwealth. Nothing contained in 220 CMR 274.00 shall be interpreted to limit the authority granted to the Transportation Network Company Division by M.G.L. c. 25 or M.G.L. c. 159A½.

274.02: Definitions

For the purposes of 220 CMR 274.00 through 220 CMR 277.00, the terms set forth shall be defined as follows, unless context requires otherwise.

Background Check Clearance Certificate or Clearance Certificate. Verification issued by the Transportation Network Company Division to a Transportation Network Driver and Transportation Network Company, electronically or otherwise, that a Transportation

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

Network Driver successfully completed the two-part background check pursuant to 220 CMR 274.06 and is suitable to provide Transportation Network Services.

Base Fares. The cost components of the price of a Ride, including booking fee, duration of Ride fee, and distance of Ride fee. Base Fares are subject to Surge Pricing.

Base Rate. A cost component of a Ride, including wait time fee, cancelation fee, or other surcharges. Base Rates are not subject to Surge Pricing.

Deactivation. One or more of the following actions with respect to a Transportation Network Driver that is implemented by a Transportation Network Company and lasts for more than five consecutive calendar days:

- (a) blocking access to the Digital Network;
- (b) changing of a status from eligible to ineligible to provide Pre-arranged Rides;
- or
- (c) any other material restriction in access to the Digital Network for purposes of providing Pre-arranged Rides.

Department. The Department of Public Utilities.

Digital Network. Any online-enabled application, software, website, or system, including mobile application, offered or utilized by a Transportation Network Company that enables Pre-arranged Rides with Transportation Network Drivers or Transportation Network Vehicles.

Division. The Transportation Network Company Division established by the Department to implement, administer, and enforce M.G.L. c. 159A½.

Driver Roster. The Transportation Network Drivers that a Transportation Network Company has submitted to the Division for a secondary background check.

Period 1 Miles or P1 Miles. The miles traveled by a Transportation Network Vehicle when the Transportation Network Driver or Transportation Network Vehicle is logged into a Digital Network and is available to perform Pre-arranged Rides.

Period 2 Miles or P2 Miles. The miles traveled by a Transportation Network Vehicle after a Pre-arranged Ride has been accepted and while the Transportation Network Vehicle is en route to pick up a Transportation Network Rider.

Period 3 Miles or P3 Miles. The miles traveled by a Transportation Network Vehicle after a Transportation Network Rider has entered a Transportation Network Vehicle and is en route to the Transportation Network Rider's destination and until the Transportation Network Rider exits the Transportation Network Vehicle.

Pre-arranged Ride or Ride. A period of time that begins when a Transportation Network Driver or Transportation Network Vehicle accepts a Ride through a Digital Network and the Transportation Network Driver or Transportation Network Vehicle is en route to pick

up a Transportation Network Rider, continues while the Transportation Network Driver or Transportation Network Vehicle transports the Transportation Network Rider, and ends when the Transportation Network Rider safely departs from the Transportation Network Vehicle or when a Transportation Network Rider cancels the Ride.

Shared Ride. A Pre-Arranged Ride in which a Transportation Network Rider requests and begins a Ride with one or more passengers who separately request a Ride and the cost of each Ride is proportional to the service each Rider independently receives as a share of their Ride.

Surge Pricing. The application of a dynamic multiplier or other formula to increase the Base Fares of a Ride in response to current, localized supply and demand. Surge Pricing shall be applied to Base Fares only.

Transportation Network Company or TNC. A corporation, partnership, sole proprietorship, or other entity that offers or uses a Digital Network to connect Transportation Network Riders to Transportation Network Drivers and Transportation Network Vehicles to pre-arrange and provide transportation. The provider of a Digital Network may be construed to be a TNC if that entity controls or manages a TNC.

Transportation Network Company Permit or Permit. A document issued, electronically or otherwise, by the Division authorizing a TNC to provide Transportation Network Services in the Commonwealth.

Transportation Network Driver or Driver. An individual certified by a TNC to provide Transportation Network Services, or an individual for whom a TNC has submitted to the Division for a secondary background check.

Transportation Network Driver Certificate or Driver Certificate. The certification to become a Driver and the authorization to provide Transportation Network Services issued, electronically or otherwise, by a TNC to a Driver and which is displayed to Riders.

Transportation Network Rider or Rider. A passenger in a Ride provided by a Driver or Transportation Network Vehicle, provided that the passenger personally arranged the Ride or the arrangement was made on the passenger's behalf.

Transportation Network Services or Services. The offer and provision of Rides for compensation, financial benefit, or on a promotional basis to Riders or prospective Riders through a Digital Network, covering the period beginning when a Driver or Transportation Network Vehicle is logged onto a Digital Network and is available to receive a Ride or while in the course of providing a Ride and ending when the Ride is completed.

Transportation Network Vehicle or Vehicle. A vehicle that is used by a Driver to provide Services, including but not limited to a personal passenger vehicle, or livery vehicle;

provided, however, that a licensed taxicab pursuant to M.G.L. c. 40, § 22 shall not be a Transportation Network Vehicle.

274.03: Transportation Network Company Permit Process

- (1) A TNC shall maintain a valid Permit to provide Services within the Commonwealth. The Division shall specify the format and contents for a Permit application, including but not limited to the requirements set forth in M.G.L. c. 159A½, § 3(c).
- (2) A TNC shall file with the Division a description of the methods by which Riders access its Services, such as the aspects of a Digital Network's webpage, mobile application, or phone system. A TNC shall prohibit another entity from providing transportation through its Permit and/or through its Digital Network, unless approved by the Division.
- (3) A TNC shall apply to renew its Permit each year on a schedule determined by the Division.
- (4) The filing fee for a new Permit application shall be \$5,000, and the fee for a Permit renewal application shall be \$2,500. The Division may waive a filing fee where consistent with the public interest.
- (5) The Division shall not grant or renew a Permit unless it is consistent with the public interest for the entity to render Services within the Commonwealth. An entity denied a Permit may reapply to the Division no earlier than nine months from the date of the denial.
- (6) Failure of a TNC to comply with the Permit application requirements may result in the denial or suspension of a Permit, restrictions on the TNC's provision of Transportation Network Services, or other remedial and public safety-related actions that the Division deems necessary in the public interest.
- (7) In determining whether an application is qualified for a Permit or renewal thereof, the Division may consider, among other things:
 - (a) The fitness and suitability of the applicant or its members, including its compliance with the rules and regulations of other jurisdictions;
 - (b) The applicant's candor and accuracy of its application;
 - (c) The applicant's ability to ensure that Riders using wheelchairs, Riders aided by service animals, and Riders with disabilities are accommodated;
 - (d) The applicant's ability to provide lawful, safe, suitable, and reliable Service; and
 - (e) The applicant's ability to comply with the Division's requirements for TNCs.

274.04: Transportation Network Driver Requirements

- (1) Prerequisites. To provide Services, a Driver must:
 - (a) Have a valid Clearance Certificate;
 - (b) Have a valid Driver Certificate;
 - (c) Have access to a Vehicle registered in the Commonwealth and inspected pursuant to M.G.L. c. 90, § 7A, or access to a Vehicle registered in another state that complies with the inspection requirements of that state;
 - (d) Comply with 540 CMR: *Registry of Motor Vehicles* promulgated pursuant to M.G.L. c. 90, § 7A; and
 - (e) Comply with the automobile insurance requirements pursuant to M.G.L. c. 159A½, § 5.

- (2) Documents for Law Enforcement
 - (a) A Driver shall produce, electronically or otherwise, the following documents to law enforcement upon reasonable request:
 1. Clearance Certificate;
 2. Driver Certificate; and
 3. Secondary Massachusetts Vehicle Inspection Report pursuant to 540 CMR 30.00: *Annual Inspection of Transportation Network Company (TNC) Vehicles*.
 - (b) Failure to comply with the requirements of 220 CMR 274.04(2)(a) may result in criminal and civil penalties from law enforcement as provided by M.G.L. c. 159A½, § 7.

- (3) Identity Verification
 - (a) An applicant to be a Transportation Network Driver shall submit proof of the applicant's identity to the TNC, which shall consist of the following documents; provided, however, that a single document cannot be used to satisfy the requirements of both 220 CMR 274.04(3)(a)1 and 2:
 1. Documentation that proves the applicant's full Social Security Number;
 2. A valid driver's license with the date of birth and a photograph of the Driver.
 - (b) The TNC shall maintain copies of each document presented by an applicant to establish proof of identity, and shall use reasonable means to maintain the confidentiality of such documents. The Division may review the authenticity of any documents submitted to establish an applicant's identity.
 - (c) The Division may consult with any other appropriate agency, including but not limited to, local, state, or federal agencies, to verify the authenticity and accuracy of documents presented by an applicant.

- (4) Driver Training. A TNC shall require all Drivers, at the TNC's expense, to complete a safety and professional driving program annually as a condition of using the TNC's Digital Network. The program shall include, but is not limited to, all of the following components:

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

- (a) Training regarding road safety and defensive driving practices, such as avoiding speeding, collisions, and driving while drowsy;
- (b) Training on providing Services to people with special needs, disabilities, or visual impairments;
- (c) Training on human trafficking awareness and prevention;
- (d) Distracted driving training, which includes appropriate use, mounting, and view of mobile devices; and
- (e) Training regarding passenger interactions including de-escalation training, and protocols for managing intoxicated, unruly, or violent passengers, as well as unaccompanied minors.

274.05: Transportation Network Driver Certification Process

- (1) A TNC shall prohibit a Driver or Vehicle from providing Services if any of the following are expired, inactive, or otherwise not valid:
 - (a) Background Check Clearance Certificate;
 - (b) Transportation Network Driver Certificate;
 - (c) Driver's license;
 - (d) Insurance;
 - (e) Registration;
 - (f) Inspection; or
 - (g) Secondary Massachusetts Vehicle inspection, pursuant to 540 CMR 30.00: *Annual Inspection of Transportation Network Company (TNC) Vehicles*.
- (2) A Driver Certificate shall include:
 - (a) Driver's first name and first initial of surname as they appear on Driver's license;
 - (b) A non-computer-generated color facial image of the Driver from within the past calendar year;
 - (c) License plate number of the Vehicle in use;
 - (d) A statement that the Driver has successfully completed the two-part background check required by 220 CMR 274.06
 - (e) Make, model, and color of the Vehicle in use;
 - (f) A statement or recognizable logo to identify which TNC issued the Driver Certificate; and
 - (g) Other information as required by the Division.
- (3) A Rider shall be able to access a Driver Certificate on a TNC's Digital Network at all times during the provision of Services and for 48 hours after the Ride ends.

274.06: Transportation Network Driver Background Check

- (1) Driver Background Check Process
 - (a) To provide Services, each Driver must successfully complete a two-part background check in accordance with 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers*. First, a TNC shall complete a background

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

check pursuant to 220 CMR 274.06(2), and second, the Division shall complete a background check pursuant to 220 CMR 274.06(3).

(b) Prior to the Division's background check, a TNC shall obtain a Driver's consent, consistent with 803 CMR 2.00: *Criminal Offender Record Information (CORI)*, for the Division to conduct a background check.

(c) After obtaining consent to conduct a Driver background check, a TNC shall submit its Driver Roster to the Division, which shall include the following Driver Roster information:

1. Legal first name;
2. Legal middle name;
3. Legal last name;
4. Former name(s) (if applicable);
5. Address as provided on driver's license;
6. Place of birth (city and state);
7. Driver's license number;
8. Driver's license expiration date;
9. Driver's license state;
10. Date of birth;
11. Full Social Security Number;
12. Universally unique identifier (one per Driver);
13. Electronic mail address;
14. Mailing address;
15. Cellular telephone number; and
16. Date of Driver's consent, consistent with 803 CMR 2.00: *Criminal Offender Record Information (CORI)*, to conduct a background check.

(d) If the two-part background check does not reveal a disqualifying condition pursuant to 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers.*, the Division shall issue a Clearance Certificate to the Driver and to each relevant TNC.

(e) If a TNC learns that a Driver's personal information under 220 CMR 274.06(1)(c) has changed, the TNC shall promptly notify the Division and conduct a new background check in accordance with 220 CMR 274.06(2). No less often than annually a TNC shall ensure that the Driver's personal information is current and accurate.

(f) The Division may establish guidelines for TNCs to electronically submit and receive Driver personal information and suitability determinations.

(2) TNC Background Check

(a) A TNC shall conduct a nationwide background check for each Driver, which shall, at a minimum, include a review of the following:

1. Multi-state criminal history background check, including a check of each state where the Driver resided and/or was licensed during the preceding seven years;
2. Multi-state motor vehicle driving history background check, including a check of each state where the Driver resided and/or was licensed during the preceding seven years; and
3. U.S. Department of Justice National Sex Offender Public website.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(b) A TNC shall conduct the nationwide background check for each Driver eligible to provide Services not less than once every 183 days. If the Driver becomes ineligible to provide Services pursuant 220 CMR 274.05(1), and the previous background check is over 183 days, the TNC shall conduct a new background check pursuant to 220 CMR 274.06(2)(a) before the Driver may provide Rides.

(c) A TNC shall engage in ongoing and continuous monitoring of a Driver's criminal and driving record. A TNC shall ensure that all Massachusetts licensed Drivers are enrolled in the Driver Verification System provided by the Massachusetts Registry of Motor Vehicles or functional equivalent, and that non-Massachusetts licensed Drivers are enrolled in a functionally equivalent system.

(d) Nothing shall prohibit a TNC from maintaining internal Driver suitability requirements in addition to the requirements of 220 CMR 274.06(2).

(e) If a TNC learns of and verifies a Driver's arrest for a crime or a citation for a driving infraction that would disqualify a Driver pursuant to 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers*, from providing Services, the TNC shall immediately suspend or revoke the Driver Certificate, notify both the Driver and the Division immediately, and provide the Division with the material information relied upon to verify the arrest or citation.

(f) If the Division suspends a Driver's Clearance Certificate and notifies a TNC of the suspension, the TNC shall promptly bar the Driver's access to its Digital Network and prevent the Driver from providing Rides until the Division determines otherwise.

(g) Any prospective Driver whose current driver's license or motor vehicle record does not indicate at least seven years of licensing history for the submitted license shall certify to the TNC whether they have held a driver's license in a different state in the past seven years and, if so, shall submit the additional driver's license information to the TNC. Upon receipt of an additional license, the TNC shall conduct a background check in accordance with 220 CMR 274.06(a)2. If a prospective Driver does not respond to the certification or responds affirmatively but does not submit the additional license information, the person shall be ineligible to provide Services.

(h) A TNC background check shall be conducted by an entity that is accredited by the Professional Background Screening Association or another similar organization approved by the Division.

(i) Upon request, a TNC shall provide the Division with the criteria, matrix, standards, scoring, or guidelines by which the TNC or its third-party background check provider determines Driver suitability in accordance with 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers*.

(3) Division Background Check

(a) The Division shall conduct a Driver background check based on information that the Division receives from the Department of Criminal Justice Information Services, Sex Offender Registry Board, Warrant Management System, Registry of Motor Vehicles, and other reliable sources. The Division

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

shall determine whether the background check reveals any disqualifying condition pursuant to 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers*.

(b) If a Driver has a disqualifying condition pursuant to 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers*, the Division shall issue a negative determination of suitability to the Driver, providing the specific reasons for unsuitability, and also provide notification of the negative determination of suitability to the relevant TNC(s) stating that the Driver was found not suitable.

(c) The Division shall issue a Clearance Certificate to a Driver that has not been disqualified pursuant to 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers*.

(d) If the Division learns of and verifies a Driver's unsuitability, the Division shall immediately suspend or revoke the Driver's Clearance Certificate and notify the relevant TNC(s). After having been so notified, the TNC shall immediately suspend or revoke the Driver Certificate and prevent the Driver from providing any Rides until the Division determines otherwise.

(e) The Division shall conduct the background check pursuant to 220 CMR 274.06(3)(a) not less frequently than once annually.

(f) The cost to a TNC for the Division to conduct an initial Driver background check shall be \$20, and the cost to a TNC for the Division to conduct an annual Driver background check shall be \$10. A TNC shall not charge a Driver or Rider the costs assessed by the Division to conduct an initial and annual background check. The Division will add these costs to a line item in the annual surcharge assessment issued to each TNC pursuant to G.L. c. 25, § 23(b).

(g) If, after having suspended a Driver's Clearance Certificate, the Division reinstates the Clearance Certificate, the Division shall notify each relevant TNC of the reinstatement. Upon receiving such notification from the Division, a TNC shall review the Driver's suitability and determine whether to reinstate the Driver on its Digital Network.

274.07: Hours of Service

(1) A Driver shall not offer or provide Services for more than 12 total hours, cumulative of P1, P2, and P3 Miles, in a 24-hour period.

(2) A TNC shall implement a policy to ensure that, after 12 total hours of providing Services, cumulative of P1, P2, and P3 Miles, during a 24-hour period, the Driver shall not be permitted to access the Digital Network for not less than six consecutive hours. For purposes of this provision, the Division does not presume that a Driver logs onto a Digital Network if the login period does not exceed five minutes.

(3) A TNC shall bar access to its Digital Network for a period of not less than 24 consecutive hours to any Driver who violates any requirement set forth in 220 CMR 274.07.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(4) A TNC shall create a written enforcement policy to comply with 220 CMR 274.07 and shall file its enforcement policy, and subsequent changes or updates to its enforcement policy, with the Division during a TNC's Permit application and application for renewal.

274.08: Transportation Network Vehicle Requirements

(1) Seating Capacity. A Vehicle shall have a manufacturer's rated seating capacity of fewer than ten persons, including the Driver.

(2) Vehicle Types. The types of Vehicles used to provide Services shall be limited to passenger vehicles with at least four independently opening passenger doors. Passenger vehicles may include a coupe, sedan, or light-duty vehicle, including a van, minivan, sport utility vehicle, pickup truck, hatchback, convertible, or other similar vehicle. A Vehicle shall have a clear title, defined as not being issued the title class of "salvage," "rebuilt," "junk," "total loss," or any equivalent classification in any jurisdiction.

(3) Decals & Trade Dress

(a) A TNC shall ensure that removable decals or trade dress are affixed to the front and back of a Vehicle at all times while the Vehicle is used to provide Services.

(b) The removable decal or trade dress shall be made of vinyl or of other similar quality; provided, however, that it may be of paper quality for not more than seven calendar days after a TNC's authorization of the Vehicle to provide Services.

(c) The removable decal or trade dress must be reflective, illuminative, or otherwise patently visible at night or in low-light environments.

(d) Each removable decal or trade dress shall be approved by the Division prior to use by a TNC.

(4) Vehicle Advertising. A TNC shall not provide for commercial Vehicle advertising, including fixtures on the roof of a Vehicle, other than the TNC removable decal or trade dress, unless approved by the Division. Any such advertising must comply with the rules and regulations of the Massachusetts Department of Transportation and United States Department of Transportation. The Division may require the Vehicle to pass an additional safety inspection.

(5) Illuminated Trade Dress. A Vehicle may display illuminated trade dress issued by a TNC and approved by the Division. Any such illuminated trade dress must comply with the rules and regulations of the Massachusetts Department of Transportation and United States Department of Transportation.

(6) Vehicle Inspection. Every Vehicle shall receive an annual inspection pursuant to M.G.L. c. 90, § 7A and 540 CMR 30.00: *Annual Inspection of Transportation Network Company (TNC) Vehicles*. Vehicles registered in another jurisdiction shall comply with the inspection requirements of that jurisdiction.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(7) Vehicle Registration. Every Vehicle shall maintain valid registration status with the respective state of registration in accordance with M.G.L. c. 159A½, § 4(b)(ii).

(8) Proof of Insurance. Every Driver shall comply with the insurance requirements set forth in M.G.L. c. 175, § 228.

(9) Recalls. A TNC shall perform a recall check before a Vehicle is initially determined eligible to provide Services. A TNC shall perform a Vehicle recall check once every 365 days thereafter; provided, however, that the recall check shall not be due if the Vehicle is inactive or otherwise ineligible to provide Services. If the Vehicle becomes inactive or ineligible to provide Services, and the previous recall check occurred earlier than the preceding 365 days, the TNC shall conduct a new recall check before the Vehicle may be used to provide Rides. The TNC shall prevent a Vehicle from providing Services if it is subject to recall and until the TNC ensures that the recall has been resolved.

274.09: Insurance

(1) A TNC shall provide the Division with proof of adequate insurance, as certified by the Division of Insurance and in accordance with M.G.L. c. 159A½, § 5 and M.G.L. c. 175, § 228, prior to receiving a Permit from the Division.

(2) Upon receipt of a Permit, and before a Driver can provide Services, a TNC shall clearly and conspicuously provide a Driver with the following disclosures:

(a) A statement that the Driver's own automobile insurance policy might not provide coverage during the provision of Services; and

(b) A statement of the automobile insurance coverage that the TNC provides, including the types of coverage and the limits for each type of coverage, in each of the following circumstances:

1. A Driver logged onto the Digital Network and available to receive transportation requests, but not engaged in a Pre-arranged Ride;
2. A Driver engaged in a Pre-arranged Ride; and
3. A Driver neither logged onto the Digital Network nor engaged in a Pre-arranged Ride.

(3) Within seven business days of receiving a Driver Certificate, a Driver shall disclose to the automobile insurance carrier, whose coverage applies to the Vehicle(s) used by the Driver to provide Services, that the Vehicle is used to provide Services.

(4) A TNC shall post on its website the method and contact information for insurance claims pursuant to M.G.L. c. 159A½, § 5.

274.10: Pre-arranged Rides

(1) Safety Features.

(a) Ride Authentication. After a Rider requests a Ride and before the Rider enters the Vehicle, a TNC shall provide the Rider and Driver a secure, unique,

and affirmative authentication and matching process to ensure that the Rider and Driver are engaged in the correct Ride, which shall be approved by the Division.

(b) Share My Trip. A Digital Network's mobile application shall have conspicuous capability for a Rider to share the trip details of their Ride with a trusted third-party without that trusted third-party having to download the TNC's mobile based application, which shall include but not be limited to:

1. The unique Ride identification number;
2. Make, model, and license plate of Vehicle;
3. Name of Driver;
4. Destination of Ride and estimated arrival time; and
5. Real-time *Global Positioning System* location of the Ride.

(c) Emergency Access. A Digital Network's mobile application shall have conspicuous capability to connect a Rider, including through text message, with 911 or emergency dispatch services.

(2) Real-time Driver Identity Verification. A TNC shall ensure that a Driver completes a real-time identity verification through facial recognition comparison of a real-time self-portrait photograph and the Driver's photograph on the Driver Certificate at least once every 180 calendar days. Each TNC shall develop a Real-time Identity Verification program which shall be approved by the Division. Prior to deactivating a Driver pursuant to this subsection, the TNC shall manually review to confirm the Driver's identity.

(3) A passenger under 16 years old shall be accompanied by an adult passenger, defined as someone over the age of 18.

274.11: Record Maintenance and Retention

(1) General.

(a) A TNC shall maintain true and correct records. A TNC, or third-party on behalf of a TNC, may maintain records in electronic format, provided that copies can be reproduced in their original format.

(b) A TNC shall ensure that records maintained and kept in accordance with the Division's rules and 220 CMR 274.11 are readily accessible to the Division upon request.

(c) The Division may issue orders, rules, and guidelines relative to the content, form, and information that a TNC shall maintain and keep.

(2) Three-year Retention. A TNC shall maintain the following records, at a minimum, during a Driver's period of providing Service for a period of not less than three years:

(a) A Driver's application submitted to the TNC;

(b) The disclosures provided to the Driver within the TNC's terms of service, including the Driver's acknowledgement of said terms;

(c) The following data for each Pre-arranged Ride:

1. Driver's Vehicle license plate number;
2. Vehicle identification number;

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

3. Identity of Driver;
 4. Identity of Rider;
 5. Date and time of Ride;
 6. Origination address;
 7. Destination address;
 8. Date, time, and location of drop-off; and
 9. Final cost of each Base Fare and Base Rate and of Surge Pricing;
- (d) A roster of Drivers for each calendar year, which shall be maintained for a period of not less than three years from the date that the roster is generated; and
- (e) Records pertaining to accessibility of Riders with special needs, disabilities, and visual impairments.
- (3) Seven-year Retention. A TNC shall maintain the following records, at minimum, for a period of not less than seven years:
- (a) Rider feedback and incidents reported, from any source, to a TNC relative to a Driver or Rider, and any actions that the TNC has taken, if any, to resolve said incidents;
 - (b) Results of each Driver background check pursuant to 220 CMR 274.06(2)(a) and (b); and
 - (c) Vehicle inspection, registration, and insurance documents pursuant to 220 CMR 274.08.
- (4) Indefinite Retention. A TNC shall indefinitely maintain records relating to a TNC's Deactivation of a Driver, including but not limited to the material reasons for the Deactivation and the material information relied upon to Deactivate the Driver.

274.12: Reporting Requirements

- (1) General. The Division shall issue orders, rules, guidelines, and forms relative to the content of information that a TNC shall report to the Division. Unless otherwise provided, a TNC shall be afforded seven business days to comply with a request for information from the Division and shall provide information in a format, manner, and method as directed by the Division.
- (2) Ride Data Reporting.
- (a) By February 1st of each calendar year, a TNC shall submit a report for the number of Rides from the previous calendar year, including:
 1. City or town where each Ride originated;
 2. City or town where each Ride ended;
 3. Aggregated and anonymized trip route and length (miles and minutes); and
 4. Location of Vehicle accidents.
 - (b) On the first day of each month, a TNC shall submit to the Division, in a format approved by the Division, data related to each Ride for P1, P2, and P3 Miles, provided in the month prior to the previous month, which shall include:
 1. Address of the Driver as appearing on their most recent driver's license on file with the TNC;

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

2. Average speed;
3. Cost of Surge Pricing;
4. Cost paid by the Rider for the Ride;
5. Date and time of origination and termination, calculated to the nearest minute;
6. Latitude and longitude of the origination and termination, calculated to 0.001 decimal degrees, every 60 seconds;
7. Location of Vehicle accidents (if reported to an insurance carrier by any party);
8. License plate of Vehicle;
9. Number of passengers per Ride;
10. Universally-unique identifier of the Driver;
11. Vehicle identification number (VIN);
12. Whether the Ride was a Shared Ride or requested as a Shared Ride but was not successfully matched with another Rider;
13. Whether the Rider requested accommodation for special needs;
14. Whether the Ride was provided by a wheelchair accessible Vehicle;
15. Whether the Ride was canceled by the Rider or Driver;
16. Whether the Transportation Network Driver was a professional driver, as advertised by the TNC;
17. Whether the Ride was advertised by the TNC as a luxury or premium Ride, regardless of whether the Vehicle was registered as a livery vehicle; provided, however, that if the Ride was advertised by the TNC as a luxury or premium ride, the factors that were considered in that designation, including, but not limited to, vehicle make, model, year, and, if available, trim, whether the Driver was a professional driver, as advertised by the TNC, and whether the Ride was available by an exclusive membership option;
18. Whether the Ride was provided by a fleet or rental Vehicle; and
19. Whether the Ride was connected to a Massachusetts Bay Transportation Authority or a Regional Transit Authority train station, bus stop, or ferry terminal.

(3) Intrastate Operating Revenue

(a) By March 31st of each calendar year, a TNC shall report its intrastate operating revenues for the previous calendar year. If a TNC fails to report its intrastate operating revenues to the Division by March 31st of any calendar year, the Division may estimate a TNC's intrastate operating revenues. A TNC's intrastate operating revenue shall include, but not be limited to, any Rider picked up at the following:

1. Airport;
2. Train station;
3. Bus terminal; or
4. Any other kind of port.

(4) Complaint Reporting Guidelines

(a) The Division shall establish guidelines for TNCs to submit monthly reports of a detailed accounting of Driver and Rider complaints. The Division may require TNCs to report information that includes, but is not limited to, the following:

1. A detailed taxonomy of how the TNC records and categorizes complaints and complaint resolutions, both internally and externally;
2. The number of complaints for each specific category;
3. The number and type of complaints for each Driver and Rider;
4. The specific resolution method of each complaint; and
5. Whether a Driver or Rider was permanently suspended by the TNC for a complaint.

(b) The Division may request a copy of the details of a complaint(s) for a Driver, Rider, or complaint category.

(5) Deactivation Reporting.

(a) On a schedule to be determined by the Division, a TNC shall submit a report of Drivers that it has Deactivated for reasons related to public safety within the previous 30 calendar days.

(b) Deactivation reports shall include the material information upon which the TNC relied to Deactivate the Driver.

(c) The Division may review Deactivation reports to determine whether they support the suspension of the Background Check Clearance Certificate of a Driver with respect to all TNCs.

(d) The Division may suspend a Background Check Clearance Certificate of a Driver of any TNC based on the information contained in a Deactivation report.

(e) The Division may issue guidelines regarding the content, manner, and form of Deactivation reports that TNCs shall submit.

274.13: Inspection and Audit

(1) For purposes of verifying a TNC's compliance with the requirements of M.G.L. c. 159A½, 220 CMR 274.00 through 220 CMR 277.00, and its representations to the Division, the Division may inspect a sample of records and information that the TNC maintains, or require a TNC to create records, and audit the accounts, programs, activities, functions, policies, procedures, software code, algorithms, data collection, application program interface, and any other information related to the condition, management, and operation of a TNC.

(2) In response to a complaint or incident, the Division may inspect any of a TNC's records related to the complaint or incident at issue.

(3) The Division shall annually audit the records related to 220 CMR 274.05 and 220 CMR 274.06. The Division shall, at a minimum, audit a single TNC no less frequently than each quarter.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(4) Within ten business days after receiving a request from the Division pursuant to 220 CMR 274.13, the TNC shall transmit requested records to the Division via a secure delivery method, which may include use of encryption security.

(5) The Division may contract with a third party to consult or conduct an audit or inspection of records pursuant to 220 CMR 274.13. The cost of such audit or inspection shall be borne and paid by the TNC that is under audit.

(6) In conducting an audit or inspection of records under 220 CMR 274.13, the Division or third-party auditor or consultant shall have access, including on site, to such information at reasonable times and may require the production or inspection of books, documents, GPS coordinates, data tables, software applications, financial accounting, and other information relating to any matter within the scope of the audit or inspection.

274.14: Fares & Rates

(1) Before a Rider accepts a Ride, a TNC shall provide the Rider with a clear and conspicuous estimated cost of each Base Fare and Base Rate. After each Ride, a TNC shall provide a Rider with an itemized receipt detailing the final cost of each Base Fare and Base Rate.

(2) During a federal or Governor declared state of emergency pertaining to Massachusetts, a TNC shall not raise Base Fares, including through Surge Pricing, unless as provided for in the declaration of emergency or otherwise allowed by law. The Division shall provide the TNC with notice of the requirement prohibiting the raising of Base Fares. Except as provided by 220 CMR 274.14(2), Surge Pricing is otherwise permitted.

(3) A TNC shall file with the Division its Base Fares, Base Rates, and other fees and surcharges. Neither a TNC nor a Driver shall use excessive minimum Base Fares or Base Rates.

(4) A TNC shall ensure that there is no additional charges or increased fares for Riders using wheelchairs, Riders aided by service animals, or Riders with disabilities.

274.15: Internal Policy Development

The Division may direct a TNC to create, support, and maintain policies and procedures relative to any Division rule or 220 CMR 274.00-277.00. Such policies and procedures may be subject to Division review.

274.16: Notice

Any notice sent to a physical mailing address via certified mail or to an electronic mail address that the Division has on file for a party shall constitute *prima facie* evidence that the party received such notice. All notices shall be deemed received on the third day following the date on which they are deposited in the United States Mail, properly addressed and postage paid, or served electronically.

274.17: Third-party Contractors

A TNC may contract with a third party to comply with the Division's rules and 220 CMR 274.00-277.00. A record kept or function performed by a TNC's third-party contractor or agent shall be evaluated as if kept or performed by the TNC itself. A TNC shall hold a third-party contractor or agent to the same standards as required of a TNC pursuant to the Division's rules and 220 CMR 274.00-277.00. If a TNC's third-party contractor or agent violates G.L. c. 159A½, 220 CMR 274.00-277.00, or any rule or order of the Division, the TNC may be held responsible as if it violated G.L. c. 159A½, 220 CMR 274.00-277.00, or any rule or order of the Division.

274.18: Agent of Service

A TNC shall maintain a locally based agent of service with regular hours of business during weekdays. A TNC shall provide the Division with the identity and contact information of the agent as part of its Permit application and application for renewal. A TNC shall immediately update the Division with any change of its agent or agent contact information.

274.19: Variance

Upon application of the TNC and for good cause shown, the Division may permit variance from 220 CMR 274.00.

(1) In evaluating whether good cause exists to grant a variance from 220 CMR 274.00, the Division shall evaluate the interest of the TNC in obtaining the variance, the interests of any other affected party, and the public interest. The Division shall further consider the integrity and purposes of the underlying regulatory framework. Good cause may include consideration of the size of the TNC and its resources and capabilities to comply with the provision from which it requests a variance.

(2) A TNC seeking a variance from the provisions of 220 CMR 274.00 may request such a variance only in writing and as part of its TNC permit application or renewal filing pursuant to 220 CMR 274.03. The TNC shall provide justification and documentation, as appropriate, to support its good cause variance, including addressing the criteria described in 220 CMR 274.19(1). The Divisions shall review the requested variance and provide a response in writing as part of its decision on the TNC permit application or renewal. The Division may grant, grant with modifications, or deny the requested variance.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

274.20: Severability

The provisions of 220 CMR 274.00 shall be deemed severable if any particular provision(s) is (are) rendered invalid by judicial determination or by statutory amendment.

REGULATORY AUTHORITY

220 CMR 274.00: M.G.L. c. 6, § 172(a)(33); c. 25, § 23(a); c. 159A½; St. 2022, c. 176, § 23.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 275.00: SUITABILITY STANDARDS FOR TRANSPORTATION NETWORK DRIVERS

- 275.01: Scope and Construction
- 275.02: Definitions
- 275.03: Application of Disqualifying Conditions
- 275.04: Present Look-back Period
- 275.05: One-year Look-back Period
- 275.06: Three-year Look-back Period
- 275.07: Seven-year Look-back Period
- 275.08: Ten-year Look-back Period
- 275.09: Indefinite Look-back Period
- 275.10: Severability

275.01 Scope and Construction

- (1) Scope
 - (a) All look-back periods for suitability standards are construed as within timeframes during which a Transportation Network Driver shall not have a particular condition, offense, or violation.
 - (b) All conditions, offenses, and violations are construed to include like/similar Massachusetts laws or like/similar law(s) of another state, the United States, a military, territorial or Native American tribal authority, or any other jurisdiction
 - (c) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.
 - (d) Juvenile dispositions, except for adjudications as a youthful offender as defined by M.G.L. c. 119, § 52, shall not be considered as a factor for determining suitability.
 - (e) Nothing contained in 220 CMR 275.00 shall be interpreted to limit the general suitability authority granted to the Division by M.G.L. c. 25, § 23(a) or M.G.L. c. 159A½.
- (2) Construction.
 - (a) Look-back periods for criminal convictions, withheld or alternative adjudications, including a continuance without a finding (CWOFF), dismissal for incompetence, and a finding of not guilty by reason of insanity, commence upon the date of disposition; provided, however, that if the disposition results in incarceration in any institution, the lookback period shall commence upon release from incarceration.
 - (b) Look-back periods for motor vehicle conditions, offenses, or violations commence upon the date of the condition, offense, or violation; provided, however, if the negative determination is based upon a license suspension, the look-back period shall commence upon the termination of the suspension.

275.02 Definitions

Unless otherwise specified, the capitalized terms shall have the meaning as ascribed to them in 220 CMR 274.02.

275.03 Applications of Disqualifying Conditions

- (1) Standards of Review.
The Division shall review mandatory, presumptive, and discretionary disqualifications in accordance with 220 CMR 276.04.
- (2) Mandatory Disqualification.
 - (a) The effect of a mandatory disqualification is to disqualify a Driver from providing Services.
 - (b) If a Driver holds a valid Background Check Clearance Certificate and is subject to a mandatory disqualification, the Division shall suspend the Driver's Background Check Clearance Certificate unless and until the mandatory disqualification is no longer applicable.
 - (c) Appeals of mandatory disqualifications are subject to the standards of 220 CMR 276.04(2).
- (3) Presumptive Disqualification
 - (a) A presumptive disqualification shall operate as a denial of a Background Check Clearance Certificate until the Division reviews information relevant to the Driver's suitability, including information underlying the presumptive disqualification, and determines whether issuing the Driver a Background Check Clearance Certificate is consistent with the public interest.
 - (b) If a TNC deactivates a Driver pursuant to 220 CMR 275.00, the TNC shall provide the Division with all information upon which it relied to deactivate the Driver.
 - (c) Driver Appeals of presumptive disqualifications are subject to the standards of 220 CMR 276.04(3).
- (4) Discretionary Disqualification
 - (a) The Division may issue a discretionary disqualification if reliable information demonstrates that a Driver acted in a manner that resulted in jeopardy to the health, safety, or welfare of any person, or that a Driver's provision of Services is inconsistent with the public interest.
 - (b) Unless otherwise provided, the Division may issue a discretionary disqualification for any offense, violation, or condition regardless of whether it is listed within 220 CMR 275.04 through 220 CMR 275.09.
 - (c) Driver appeals of discretionary disqualifications are subject to the standards of 220 CMR 276.04(3).

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

275.04 Present Look-back Period

220 CMR 275.04(a)	A Driver shall be over 21 years old. If the Driver is 23 years old or younger, the Driver shall have held a valid U.S. driver's license for not less than three years. If the Driver is 23 years of age or older, the Driver must have held a valid U.S. driver's license for not less than one year.	Mandatory Disqualification
220 CMR 275.04(b)	Suspended or revoked driving privileges in any U.S. jurisdiction.	Mandatory Disqualification
220 CMR 275.04(c)	Driver's license that is temporary, junior operator, subject to ignition interlock, subject to restrictions on times of operation, or other similar restrictions.	Mandatory Disqualification
220 CMR 275.04(d)	Applicant is required to register as a sex offender in any jurisdiction.	Mandatory Disqualification
220 CMR 275.04(e)	Open or unresolved warrant for arrest in any jurisdiction.	Mandatory Disqualification
220 CMR 275.04(f)	Any outstanding or unresolved criminal proceeding in any jurisdiction, the disposition for which could result in a negative determination of suitability, including but not limited to active probation.	Mandatory Disqualification
220 CMR 275.04(g)	Open or unresolved driving infraction(s) in any jurisdiction, the disposition of which could result in a mandatory disqualification pursuant to 220 CMR 275.06.	Mandatory Disqualification

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

275.05 One--year Look-back Period

220 CMR 275.05(a)	Suspension of a driver’s license due to findings of “Responsible” for three speeding tickets in the preceding one year.	Mandatory Disqualification
220 CMR 275.05(b)	Suspension of passenger driver’s license for any reason related to the operation of a motor vehicle, unless otherwise provided.	Mandatory Disqualification
220 CMR 275.05(c)	Allowing or attempting to allow another person to provide Transportation Network Services on the Driver’s behalf pursuant to M.G.L. c. 159A½, § 7(b).	Mandatory Disqualification

275.06 Three-year Look-back Period

220 CMR 275.06(a)	Suspension of driver’s license due to Surchargeable Incidents, as defined by 211 CMR 134.02.	Mandatory Disqualification
220 CMR 275.06(b)	Any one major traffic violation as defined by the Massachusetts Division of Insurance, unless otherwise provided.	Mandatory Disqualification
220 CMR 275.06(c)	Any combination of five or more minor traffic violations and/or Surchargeable Incidents as defined by 211 CMR 134.02	Mandatory Disqualification

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

275.07 Seven-year Look-back Period

<p>220 CMR 275.07(a)</p>	<p>A conviction, alternative or withheld adjudication (such as a CWOFF), or court-ordered alcohol or controlled substance education, treatment, or rehabilitation program for any form of the following motor vehicle related offenses:</p> <ul style="list-style-type: none"> • M.G.L. c. 90, § 12(c) (ignition interlock, permit operation without) • M.G.L. c. 90, § 24(1)(a)(1) (operating under the influence of intoxicating liquor and/or drugs) • M.G.L. c. 90, § 24(2)(a) (leave scene of property damage) • M.G.L. c. 90, § 24(2)(a^{1/2})(1) (leave scene of personal injury) • M.G.L. c. 90, § 24(2)(a) (negligent operation of motor vehicle) • M.G.L. c. 90, § 24(2)(a) (reckless operation of motor vehicle) • M.G.L. c. 90, § 24(2)(a) (reckless endangerment) • M.G.L. c. 90, § 24(2)(a) (use without authority) • M.G.L. c. 90, § 24(2)(a) (registration, false statement in application for) • M.G.L. c. 90, § 24H (abandoned/stolen/crushed motor vehicle, unregistered or improper removal) • M.G.L. c. 90, § 24B (motor vehicle document fraud) • M.G.L. c. 90, § 24S(a) (ignition interlock, operate without) • M.G.L. c. 90, § 24T(a) (ignition interlock, tamper with) • M.G.L. c. 90, § 24U(a)(1) (ignition interlock for another, bypass) • M.G.L. c. 90, § 24V(a)(1) (child endangerment while OUI) • M.G.L. c. 90, § 34B (insurance certificate, false motor vehicle) 	<p>Mandatory Disqualification</p>
--------------------------	--	-----------------------------------

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

	<ul style="list-style-type: none"> • M.G.L. c. 90B, § 8 (operating under the influence watercraft) • M.G.L. c. 90F, § 11 (operating a commercial vehicle under the influence) • M.G.L. c. 266, § 28 (motor vehicle or trailer; theft or concealment; operation without owner’s consent after revocation of license) • M.G.L. c. 266, § 111A (insurance fraud) • M.G.L. c. 266, § 111B (motor vehicle insurance fraud) • M.G.L. c. 266, § 111C (fraudulently obtaining benefits under insurance contract) • M.G.L. c. 268, § 39 (perjury related to motor vehicle theft) 	
<p>220 CMR 275.07(b)</p>	<p>A conviction (or alternative or withheld adjudication, such as a CWOFF) for any of the following offenses:</p> <ul style="list-style-type: none"> • M.G.L. c. 209A (abuse prevention or restraining order) • M.G.L. c. 258E (harassment protection order) • M.G.L. c. 265, § 13A (assault or assault and battery) • M.G.L. c. 265, § 13D (assault or assault and battery on a public employee) • M.G.L. c. 265, § 13I (assault or assault and battery on an ambulance/health care provider) • M.G.L. c. 265, § 13M (assault or assault and battery on a family/household member) • M.G.L. c. 265, § 39 (property damage to intimidate) • M.G.L. c. 266, § 25 (larceny from a person) • M.G.L. c. 266, § 37 (identity fraud) • M.G.L. c. 268, § 13B (witness intimidation) • M.G.L. c. 272, § 77 (cruelty to animals) • M.G.L. c. 275, § 2 (threats) 	<p>Mandatory Disqualification</p>

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

<p>220 CMR 275.07(c)</p>	<p>A conviction (or alternative or withheld adjudication, such as a CWOFF) for any felony fraud offense, including but not limited to:</p> <ul style="list-style-type: none"> • M.G.L. c. 266, § 30 (larceny – over \$1,200 only) • M.G.L. c. 266, § 30B (unlawful possession of theft detection shielding device or deactivator) • M.G.L. c. 266, § 30C (use of counterfeit receipt with intent to defraud) • M.G.L. c. 266, § 30D (organized retail crime) • M.G.L. c. 266, § 31 (obtaining signature by false pretenses) • M.G.L. c. 266, § 32 (fraudulent conversion of property by captain of vessel) • M.G.L. c. 266, § 33 (larceny by false pretenses relating to contracts, banking transactions or credit) • M.G.L. c. 266, § 35A (false material statements in connection with mortgage lending) • M.G.L. c. 266, § 37 (uttering fraudulent checks) • M.G.L. c. 266, § 37C (fraudulent use of credit cards – felony form only) • M.G.L. c. 266, § 39 (destruction or concealment of will) • M.G.L. c. 266, § 40 (common and notorious thief) • M.G.L. c. 266, § 50 (fraud or embezzlement by state treasury employee) • M.G.L. c. 266, § 51 (fraud or embezzlement by city, town or county employee) • M.G.L. c. 266, § 52 (fraud or embezzlement by bank officer or employee) • M.G.L. c. 266, § 53A (misconduct by bank officer or employee) • M.G.L. c. 266, § 55 (embezzlement by liquidating agent or receiver) • M.G.L. c. 266, § 56 (embezzlement by broker or agent) 	<p>Mandatory Disqualification</p>
--------------------------	--	-----------------------------------

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

	<ul style="list-style-type: none"> • M.G.L. c. 266, § 57 (embezzlement by fiduciary) • M.G.L. c. 266, § 60 (buying or receiving stolen property) • M.G.L. c. 266, § 60A (buying or selling stolen trade secrets) • M.G.L. c. 266, § 66 (fraudulent issue of stock) • M.G.L. c. 266, § 67 (false entry in corporate books) • M.G.L. c. 266, § 67A (false statement in procurement) • M.G.L. c. 266, § 67B (presentation of false claims) • M.G.L. c. 266, § 67C (false entry in records relating to capital construction projects) • M.G.L. c. 266, § 73 (obtaining goods under false pretenses) • M.G.L. c. 266, § 74 (fraudulent use of corporate credit) • M.G.L. c. 266, § 75 (obtaining property by trick – over \$250 only) • M.G.L. c. 266, § 76 (gross fraud or cheat at common law) • M.G.L. c. 266, § 110 (false invoice of cargo) • M.G.L. c. 266, §111 (false affidavit or protest) • M.G.L. c. 267, § 1 (false or forged records) • M.G.L. c. 267, § 2 (forged tickets) • M.G.L. c. 267, § 3 (forged seal of land court) • M.G.L. c. 267, § 4 (forged railroad company stamp) • M.G.L. c. 267, § 5 (uttering false record) • M.G.L. c. 267, § 6 (uttering forged ticket) • M.G.L. c. 267, § 7 (forged bill of credit issued by treasurer) • M.G.L. c. 267, § 8 (forged bank bill or note) • M.G.L. c. 267, § 9 (possession of ten or more counterfeit notes) • M.G.L. c. 267, § 10 (uttering counterfeit note) • M.G.L. c. 267, § 11 (common utterer) • M.G.L. c. 267, § 12 (possession of counterfeit notes) 	
--	---	--

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

	<ul style="list-style-type: none"> • M.G.L. c. 267, § 13 (possession of tools for counterfeiting) • M.G.L. c. 267, § 17 (possession of ten or more counterfeit coins) • M.G.L. c. 267, § 18 (possession of fewer than ten counterfeit coins) • M.G.L. c. 267, § 19 (common utterer of counterfeit coins) • M.G.L. c. 267, § 20 (tools for making counterfeit coin) • M.G.L. c. 267, § 27 (possession of worthless bank notes) • M.G.L. c. 267, § 28 (uttering worthless bank notes) • M.G.L. c. 268, § 1 (perjury) • M.G.L. c. 268, § 2 (subordination of perjury) • M.G.L. c. 268, § 3 (attempt to procure perjury) • M.G.L. c. 268, § 6 (false report before state departments) • M.G.L. c. 268, § 13 (corrupting masters, auditors, jurors, arbitrators) • M.G.L. c. 268, § 13B (willfully misleading to obstruct a criminal investigation) • M.G.L. c. 268, § 13E (tampering with record document for use in judicial proceeding) • M.G.L. c. 268, § 33 (impersonating an officer) • M.G.L. c. 268, § 36 (compounding or concealing a felony) 	
220 CMR 275.07(d)	A conviction for a felony offense, unless otherwise provided.	Mandatory Disqualification
220 CMR 275.07(e)	An alternative or withheld adjudication, such as a CWOFF, for any felony offense, unless otherwise provided.	Presumptive Disqualification
220 CMR 275.07(f)	A not guilty by reason of insanity or dismissal for incompetence for any offense within 220 CMR 275.07.	Mandatory Disqualification

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

275.08 Ten-year Look-back Period

220 CMR 275.08(a)	Habitual traffic offender license suspension	Mandatory Disqualification
220 CMR 275.08(b)	<p>Two or more of the following in any combination:</p> <p>A conviction, not guilty by reason of insanity, dismissal for incompetence, or alternative or withheld adjudication for a motor vehicle related offense pursuant to:</p> <ul style="list-style-type: none"> • M.G.L. c. 90, § 24(1)(a)(1) (operating under the influence of intoxicating liquor and/or drugs) • M.G.L. c. 90, § 24(2)(a) (leave scene of property damage) • M.G.L. c. 90, § 24(2)(a¹/₂)(1) (leave scene of personal injury) • M.G.L. c. 90, § 24(2)(a) (negligent operation of motor vehicle) • M.G.L. c. 90, § 24(2)(a) (reckless operation of motor vehicle) • M.G.L. c. 90, § 24(2)(a) (reckless endangerment) • M.G.L. c. 90, § 24(2)(a) (use without authority) • M.G.L. c. 90B, § 8 (operating under the influence watercraft) 	Mandatory Disqualification
220 CMR 275.08(c)	<p>A conviction (or alternative or withheld adjudication, such as a CWOFF) for any of these offenses:</p> <ul style="list-style-type: none"> • A crime involving the illegal use or possession of a weapon • M.G.L. c. 265, § 13L (child endangerment) • M.G.L. c. 265, § 15A(b) (assault and battery with a dangerous weapon) • M.G.L. c. 265, § 15D(b) (strangulation or suffocation) • M.G.L. c. 265, § 19 (unarmed robbery) 	Mandatory Disqualification

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

	<ul style="list-style-type: none"> • M.G.L. c. 265, § 43 (stalking) • M.G.L. c. 265, § 43A (criminal harassment) • M.G.L. c. 266, § 16 (breaking and entering nighttime – felony) • M.G.L. c. 266, § 18 (breaking and entering daytime – felony) • M.G.L. c. 272, § 8 (soliciting prostitute) • M.G.L. c. 272, § 53 (indecent exposure and annoying or accosting another person) • M.G.L. c. 272, § 53A(b) (sexual conduct for fee) 	
220 CMR 275.08(d)	A not guilty by reason of insanity or dismissal for incompetence for any offense within 220 CMR 275.08.	Mandatory Disqualification
220 CMR 275.08(e)	An alternative or withheld adjudication, such as a CWOFF, for an offense within 220 CMR 275.09.	Mandatory Disqualification

275.09 Indefinite Look-back Period

220 CMR 275.09(a)	A conviction for a “violent crime” pursuant to M.G.L. c. 127, § 133E or M.G.L. c. 140, § 121 that is punishable by ten years or more in state prison, unless otherwise provided.	Mandatory Disqualification
220 CMR 275.09(b)	<p>Unless otherwise provided, a conviction for a felony robbery, including but not limited to:</p> <ul style="list-style-type: none"> • M.G.L. c. 265, § 17 (armed robbery) • M.G.L. c. 265, § 18 (assault to rob) • M.G.L. c. 265, § 21 (stealing by confining or putting in fear) • M.G.L. c. 265, § 21A (carjacking) • M.G.L. c. 266, § 14 (armed burglary) 	Mandatory Disqualification

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

<p>220 CMR 275.09(c)</p>	<p>A conviction for an offense involving the serious bodily injury or death of another person, including but not limited to:</p> <ul style="list-style-type: none"> • M.G.L. c. 90B, § 8A (operating under the influence causing serious bodily injury – watercraft) • M.G.L. c. 90B, § 8B (operating under the influence causing death – watercraft) • M.G.L. c. 90, § 24(2)(a½)(2) (leaving the scene of an accident causing death) • M.G.L. c. 90, § 24G (motor vehicle homicide) • M.G.L. c. 90, § 24L (operating under the influence causing serious bodily injury – motor vehicle) • M.G.L. c. 265, § 13½ (operating under the influence causing manslaughter) 	<p>Mandatory Disqualification</p>
<p>220 CMR 275.09(d)</p>	<p>A conviction for a “sex offense” as defined by M.G.L. c. 6, § 178C and M.G.L. c. 127, § 133E, including but not limited to:</p> <ul style="list-style-type: none"> • M.G.L. c. 265, § 13B (indecent assault and battery on a child under 14 years old) • M.G.L. c. 265, § 13B½ (aggravated indecent assault and battery on a child under 14 years old) • M.G.L. c. 265, § 13B¾ (indecent assault and battery on a child under 14 years old by a previously similarly convicted offender, adjudicated delinquent, or youthful offender) • M.G.L. c. 265, § 13F (indecent assault and battery on a person with an intellectual disability) • M.G.L. c. 265, § 13H (indecent assault and battery on a person 14 years of age or older) • M.G.L. c. 265, § 22 (rape) • M.G.L. c. 265, § 22A (rape of a child with force) • M.G.L. c. 265, § 22B (aggravated rape of a child under 16 years old with force) • M.G.L. c. 265, § 22C (rape of a child with force by similarly previously convicted) 	<p>Mandatory Disqualification</p>

	<p>offenders, delinquency adjudications, or youthful offenders)</p> <ul style="list-style-type: none"> • M.G.L. c. 265, § 23 (rape and abuse of a child) • M.G.L. c. 265, § 23A (aggravated rape and abuse of a child) • M.G.L. c. 265, § 23B (rape and abuse of a child by similarly previously convicted offenders, delinquency adjudications, or youthful offenders) • M.G.L. c. 265, § 24 (assault with intent to commit rape) • M.G.L. c. 265, § 24B (assault of a child with intent to commit rape) • M.G.L. c. 265, § 26 (kidnapping of a child) • M.G.L. c. 272, § 2 (enticing away a person for prostitution or sexual intercourse) • M.G.L. c. 272, § 3 (drugging persons for sexual intercourse) • M.G.L. c. 272, § 4A (inducing a minor into prostitution) • M.G.L. c. 272, § 4B (living off or sharing earnings of a minor prostitute) • M.G.L. c. 272, § 6 (owner of place inducing or suffering person to resort in such place for sexual intercourse) • M.G.L. c. 272, § 7 (support from, or sharing, earnings of prostitute) • M.G.L. c. 272, § 12 (procuring person to practice, or enter a place for, prostitution; employment office procuring person) • M.G.L. c. 272, § 13 (detaining, or drugging to detain, person in place for prostitution) • M.G.L. c. 272, § 16 (open and gross lewdness and lascivious behavior) • M.G.L. c. 272, § 17 (incestuous marriage or intercourse) • M.G.L. c. 272, § 28 (disseminating to a minor matter harmful to a minor) • M.G.L. c. 272, § 29A (exposing or exhibiting a child in a state of nudity) • M.G.L. c. 272, § 29B (dissemination of visual material of a child in a state of nudity or sexual conduct) 	
--	---	--

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

	<ul style="list-style-type: none"> • M.G.L. c. 272, § 35A (unnatural and lascivious acts with a child under 16 years old) • M.G.L. c. 272, § 39 (aggravated rape) • M.G.L. c. 272, § 105 (photographing, videotaping or electronically surveilling partially nude or nude person) 	
220 CMR 275.09(e)	A not guilty by reason of insanity or dismissal for incompetence for any offense within 220 CMR 275.09.	Mandatory Disqualification
220 CMR 275.09(f)	An alternative or withheld adjudication, such as a CWOFF, for an offense within 220 CMR 275.09 if 10 years or more have passed since the entry of the alternative or withheld adjudication.	Presumptive Disqualification

275.10: Severability

The provisions of 220 CMR 275.00 shall be deemed severable if any particular provision(s) is (are) rendered invalid by judicial determination or by statutory amendment.

REGULATORY AUTHORITY

220 CMR 275.00: M.G.L. c. 25, § 23(a); M.G.L. c. 159A½, § 4(c).

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 276.00: TRANSPORTATION NETWORK COMPANY DIVISION
PRACTICE & PROCEDURES

- 276.01: Purpose, Scope, and Authority
- 276.02: Definitions
- 276.03: General Rules of Applicability
- 276.04: Driver Appeal Hearings
- 276.05: Driver Deactivation Appeals
- 276.06: Preliminary Enforcement Procedures for TNC Violations
- 276.07: Formal Enforcement Procedures for TNC Violations
- 276.08: Penalty Factors for TNC Violations
- 276.09: Severability

276.01: Purpose, Scope, and Authority

- (1) Purpose.
 - (a) 220 CMR 276.00 establishes procedures and processes for investigating, determining, and resolving compliance with the rules and regulations of the Transportation Network Company Division.
 - (b) 220 CMR 276.00 shall be construed to secure a just and timely determination of the issues.
- (2) Scope. 220 CMR 276.00 applies to every Transportation Network Company and Transportation Network Driver within the Commonwealth.

276.02: Definitions

Unless otherwise specified, the capitalized terms shall have the meaning as ascribed to them in 220 CMR 274.02.

276.03: General Rules of Applicability

- (1) Appeals.
 - (a) Appeals and enforcement proceedings before the Division pursuant to 220 CMR 276.04 and 220 CMR 276.06 shall be adjudicatory proceedings conducted in accordance with M.G.L. c. 30A, §§ 10 and 11.
 - (b) All appeals from a Driver or Driver-applicant shall be conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules*.
 - (c) All appeals from a TNC or TNC-applicant shall be conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules*, unless the Division determines, in its discretion, that the hearing should be conducted under 801 CMR 1.01: *Formal Rules*, or there is a written request submitted with the appeal for a hearing under 801 CMR 1.01: *Formal Rules*. Where such a written request is made, the Division shall determine, based on the facts and circumstances of the matter, whether 801 CMR 1.01: *Formal Rules* or 1.02: *Informal/Fair Hearing Rules* will apply in order to ensure a fair outcome. A TNC or TNC-applicant shall be represented by counsel.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(d) Conflicts between 801 CMR 1.01: *Formal Rules* or 801 CMR 1.02: *Informal/Fair Hearing Rules* and 220 CMR 276.00 shall be resolved in favor of 220 CMR 276.00. If the Division grants a request for a hearing to be held pursuant to 801 CMR 1.01: *Formal Rules*, the following provisions shall not apply: 801 CMR 1.01(5), (6), (7), (11), and (14).

(2) Compulsory Process.

(a) Any party wishing to issue a subpoena shall notify the Division not later than five business days prior to issuance of the subpoena and shall include a copy of the subpoena with such notification.

(b) The Division may vacate, modify, or stay the subpoena without providing a party an opportunity to be heard; provided, however, that the Division shall promptly provide notice of its decision.

(3) Records. Records from government entities shall constitute prima facie evidence of the facts contained therein. Statements from law enforcement officials shall be deemed presumptively credible.

(4) Stays. An appeal by an aggrieved party of a final order or decision of the Division shall not operate as a stay of the decision, unless otherwise ordered by the Division or by a court of competent jurisdiction.

(5) Appeals to Superior Court. A party aggrieved by a final order or decision may appeal for judicial review in the Superior Court within 30 days after receipt of such order or decision. Any proceedings in the Superior Court shall, insofar as applicable, be governed by M.G.L. c. 30A, § 14, and may be instituted in the Superior Court for the county:

(a) Where the parties or any one of the parties reside or have their principal place of business within the Commonwealth;

(b) Where the Division has its principal place of business; or

(c) Suffolk County.

276.04: Driver Appeal Hearings

(1) Timing. An appeal by a Driver of a negative suitability determination by the Division shall be filed with the Division within 30 business days of the Division's issuance of the negative suitability determination. Appeals by Drivers are considered on a per person basis, not a per TNC or per application basis.

(2) Mandatory Disqualification. Appeals of mandatory disqualifications as provided by 220 CMR 275.00: Suitability for Transportation Network Drivers shall be limited to determining whether a genuine issue of material fact exists on the records received by the Division, whether the Division has made an error of law in applying 220 CMR 275.00: Suitability Standards for Transportation Network Drivers, or whether the Division should grant a driver a good cause waiver from the mandatory disqualification provisions of 220 CMR 275.00: Suitability Standards for Transportation Network Drivers. In evaluating whether good cause exists to grant a Driver a waiver from the mandatory

disqualification provisions of 220 CMR 275.00: Suitability Standards for Transportation Network Drivers., the Division shall evaluate the interest of the Driver in obtaining the waiver, the interests of any other affected person, and the public interest. The Division shall further consider the integrity and purposes of the underlying regulatory framework. Appeals of mandatory disqualifications are presumed to be decided on the filings and supporting documentation submitted in support of the appeal. The Division may hold a hearing at its discretion.

(3) Presumptive and Discretionary Disqualifications. Appeals of presumptive and discretionary suspensions, as provided for by 220 CMR 275.00: *Suitability Standards for Transportation Network Drivers*, shall be presumed to entitle the Driver to an appeal hearing; provided, however, that the Division may resolve the appeal favorably to the driver without a hearing based on the filings and supporting documentation submitted. Appeals of presumptive and discretionary denials for initial applications are not presumed to entitle the Driver to an appeal hearing, but one may be held at the Division's discretion. The Division shall consider the following factors when determining an appeal from a presumptive or discretionary disqualification:

- (a) Driver Conduct Review:
 1. Time since the offense(s) or incident(s) resulting in the presumptive or discretionary denial/suspension;
 2. Number of offenses and incidents;
 3. Whether a TNC's record of Rider submitted feedback regarding the Driver supports a finding of suitability;
 4. If criminal offenses are present,
 - a. The sentence imposed and length, if any, of incarceration;
 - b. The sentence imposed and length and circumstances of pre-trial disposition, parole, or probation; and
 - c. Whether the defendant pleaded *nolo contendere* or admitted to sufficient facts to support a conviction.
 5. Evidence of conduct indicating a lack of responsibility necessary to operate motor vehicles with due regard for public safety, such as records, reports, or other documentation indicating a recent history of unskilled or unsafe operation of a motor vehicle;
 6. Evidence of conduct indicating a lack of responsibility necessary to transport a Rider with due regard and respect for cultural, gender, racial, and other differences;
 7. Evidence of the commission of criminal conduct that indicates a lack of responsibility necessary to operate motor vehicles with due regard for public safety or the rights of other motorists, pedestrians, or Riders;
 8. History of criminal conduct in which there is demonstrable correlation between the criminal conduct and the operation of a motor vehicle;
 9. Relationship of offenses and incidents to the nature of work to be performed;

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

10. Nature and circumstances of disqualifying offenses as related to public safety; and
 11. Seriousness and circumstances of disqualifying offenses or incidents;
- (b) Mitigating Factors
1. Age at the time of the offense or incident; and
 2. Whether the offense or incident was committed in association with dependence on drugs or alcohol from which the Driver has since recovered.
- (c) Conduct Since Time of the Offense or Incident:
1. Any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses; and
 2. The Driver's conduct and experience since the time of the offense including, but not limited to, professional or educational certifications obtained.
- (d) Any other relevant information, including information submitted by the appellant or requested by the Division. The Division may establish guidelines about how to gather evidence that supports its assessment of presumptive and discretionary disqualifications.
- (4) Review of Incident Reports. In reviewing police reports, Rider complaints, and other types of incident reports, the Division shall consider whether the information contained in the report is:
- (a) Based on personal knowledge or direct observation, rather than on secondary hearsay;
 - (b) Recorded close in time to the events in question;
 - (c) Factually detailed, rather than generalized or conclusory;
 - (d) Internally consistent;
 - (e) Corroborated by another information; and
 - (f) Provided under circumstances that support the veracity of the source.
- (5) Required Information.
- (a) The Division may require the Driver and relevant TNC(s) to provide documentation for the appeal, including but not limited to:
 1. Licenses;
 2. Driving records;
 3. Motor vehicle documents;
 4. Criminal records and police reports;
 5. Background check reports; and
 6. Rider feedback.
 - (b) A Driver's failure to produce required information may result in the dismissal or denial of the Driver's appeal.

(6) Burdens.

(a) There shall be a presumption of unsuitability for mandatory and presumptive disqualifications. If the Division allows an appeal hearing, a Driver shall have the burden of rebutting the presumption by clear and convincing evidence to prove that the Driver is suitable to drive for a TNC.

(b) Except for circumstances under 220 CMR 276.04(6)(a), or when the presumption of unsuitability otherwise applies, the Division shall have the burden of demonstrating unsuitability by a preponderance of the evidence.

(7) Language Access. Upon Driver request and with adequate notice, the Division shall provide for interpretation services to a language of the Driver's choosing during an appeal hearing and at no cost to the Driver. A Driver may also request to have any notice or order sent by the Division be translated into the language of the Driver's choosing.

276.05: Driver Deactivation Appeals

(1) Each TNC, in good faith, shall establish an informal appeal process that is consistent with the fair, efficient, and convenient resolution of Deactivation appeals. The process shall establish and maintain internal standards by which the TNC will resolve appeals and appropriate measures to ensure consistent application of those standards. The process shall include a method for a Driver to submit an appeal through the TNC's Digital Network. Each TNC shall periodically review its appeal process and the underlying data to ensure consistent and reasonable application of its internal standards and procedures.

(2) The TNC shall provide a Driver with notice and a meaningful opportunity to be heard with respect to challenging a Deactivation. Notice shall, at minimum, consist of the following:

- (a) Clear, plain, and conspicuous statement of the TNC's action;
- (b) A detailed explanation of the reasons for the action;
- (c) Applicable legal authority or TNC policy on which such action is based, including information on the policy;
- (d) Explanation of the TNC's appeal process;
- (e) Copy or link to any applicable form to request an appeal; and
- (f) Explanation of relevant information that a Driver may submit in support of the Driver's appeal.

(3) A Driver shall have 30 calendar days to submit an appeal to the TNC. In response to an appeal, the TNC shall, within 30 calendar days, furnish a Driver with the material information or, if not readily available, a detailed description of such information upon which the TNC relied in its Deactivation. Such information shall be redacted and withheld to the extent that it discloses personal identifying information of third parties, including Riders. After receiving information from the TNC, a Driver shall have 30 calendar days to submit rebuttal information to the TNC. The TNC shall resolve a Driver appeal within 30 calendar days of a Driver's final appeal submission and shall provide the Driver with an explanation of the decision.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

- (4) The Division may require the TNC to furnish it with a copy of the information exchanged between a Driver and TNC in accordance with 220 CMR 276.05.

276.06: Preliminary Enforcement Procedures for TNC Violations

- (1) Directives.
- (a) The Division may issue written directives to TNCs in furtherance of the 220 CMR 274.00-277.00 and Division's rules.
- (b) A TNC may contest a Division directive by submitting a written response to the Director or designee within ten business days, unless otherwise provided. The response must include a complete statement of all relevant facts and authority and a full description of the reasons why the TNC disputes the Division's directive. A response by a TNC to a Division directive shall not operate as a stay of the directive, unless otherwise ordered by the Division.
- (c) If a TNC contests a Division directive, the Division shall issue a final resolution to the TNC. The Division may affirm, modify, or rescind the Division's original directive.
- (2) Warning Letter.
- (a) The Division may issue a warning letter to a TNC if it has reason to believe that a violation under M.G.L. c. 159A½, 220 CMR 274.00-277.00, or the Division's rules or directives has occurred or is occurring. This letter shall notify the TNC of the identified violation and direct the TNC to take corrective action or be subject to a preliminary inquiry or a notice of probable violation. A warning letter need not be based on a finding or an adjudication that a violation exists, nor will it constitute evidence that a violation exists.
- (b) A TNC must respond to a warning letter within ten business days, unless otherwise provided.
- (3) Preliminary Inquiry.
- (a) If the Division has reason to believe that a violation of M.G.L. c. 159A½, 220 CMR 274.00-277.00, or the Division's rules or directives has occurred or is occurring, it may conduct a preliminary inquiry. A preliminary inquiry is not an adjudicatory proceeding under M.G.L. c. 30A.
- (b) The Division may order the production of records, documents, and other information. The Division may require a TNC to participate in an informal conference. The Division will make its own determination as to the weight and veracity of relevant information.
- (c) The Division shall issue a notice of resolution to the TNC at the conclusion of a preliminary inquiry. This resolution may include a notice of probable violation, a warning letter, or a resolution of the inquiry.

276.07: Formal Enforcement Procedures for TNC Violations

- (1) Notice of Probable Violation.
- (a) The Division may commence an enforcement proceeding against a TNC by issuing a notice of probable violation if it has reason to believe that a violation

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

of M.G.L. c. 159A½, 220 CMR 274.00-277.00, or the Division's rules or directives has occurred or is occurring. A notice of probable violation may include a proposed civil penalty, disciplinary action, or corrective action.

(b) If the evidence presented during a hearing indicates reason to believe that the TNC violated any provision of M.G.L. c. 159A½, 220 CMR 274.00-277.00, or the Division's rules or directives in a manner not identified in the notice of probable violation, the Division shall issue a new or revised notice of probable violation with respect to that allegation.

(2) Response to Notice of Probable Violation. A TNC shall respond to a notice of probable violation within 15 calendar days, or on a timeline established by the Division. A TNC's failure to respond, without good cause, shall be deemed an admission of the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation, and the TNC shall be held liable to take or refrain from any action proposed in the notice of probable violation, if applicable. A TNC shall respond in one of the following methods:

(a) Return a signed consent order if one is attached to the notice of probable violation; or

(b) Submit a written request for an adjudicatory proceeding, which shall identify the basis for the claim, a clear and concise statement of facts upon which the TNC is relying, and the relief sought.

(3) Representation. A TNC must be represented by an attorney licensed in Massachusetts for an adjudicatory proceeding.

(4) Evidence.

(a) Evidence may consist of statements that are presented by affidavit or orally by sworn testimony, or which appear in admissible records, files, or correspondence. The Division may issue information requests, which shall be returned within the time prescribed by the Division and shall be accompanied by a signed affidavit from an individual with personal knowledge of the information contained therein.

(b) The Division may require the TNC to present witnesses with personal knowledge of the matters at issue to testify before the Division.

(c) In a reasonable time prior to any evidentiary hearing, the Division shall make available to the TNC any evidence which indicates that it may have violated any provision of M.G.L. c. 159A½ or 220 CMR 274.00 through 277.00, and the TNC shall provide the Division all evidence it intends to present at the hearing in its defense.

(5) Final Order.

(a) If, after a hearing, the Division finds that a violation has occurred or is continuing to occur, it may issue a final order or decision. The final order or decision shall include a written opinion setting forth the factual and legal basis of the Division's findings and shall direct the TNC to take any actions necessary to comply with the TNC's obligations under M.G.L. c. 159A½, 220 CMR 274.00-277.00, or the Division's rules and directives.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

- (b) A final order may include a civil penalty, disciplinary action, or corrective action other than as described in the notice of probable violation commencing the enforcement action.
- (c) The final order or decision is an enforcement action under M.G.L. c. 159A½, § 6.
- (d) A final order or decision shall be effective upon issuance, in accordance with its terms, unless stayed, suspended, modified, or rescinded.
- (e) If a TNC fails to comply fully with the order or decision, the Division may undertake additional enforcement action, including but not limited to:
 - 1. Assessing additional civil penalties;
 - 2. Referring the case to the Attorney General with a request that an action be brought in the Superior Court to seek appropriate relief; or
 - 3. Other penalties and requirements identified by the Division.

(6) Consent Order.

- (a) Notwithstanding any other provision to the contrary, the Division may, at any time, resolve an outstanding compliance issue with a consent order. A consent order must be signed by a duly authorized representative of the TNC to which it is issued and must indicate agreement with the terms of the consent order. A consent order need not contain an admission by the TNC that a violation has occurred and, without such a term, does not constitute such an admission.
- (b) A consent order is an enforcement action M.G.L. c. 159A½, § 6; provided, however, that it shall not be appealable and shall include an express waiver of appeal and judicial review rights that might otherwise attach to a final order or decision.

276.08: Penalty Factors for TNC Violations

- (1) If a TNC is found in violation of M.G.L. c. 159A½, 220 CMR 274.00-277.00, or a Division rule or directive, the Division shall take such action that it deems necessary, including but not limited to:
 - (a) Refrain from issuing Background Check Clearance Certificates;
 - (b) Suspend, revoke, or deny a Permit; or
 - (c) Issue monetary penalties.
- (2) In determining the enforcement action, the Division shall consider, without limitation:
 - (a) The size of the TNC based on the TNC's intrastate operating revenues as reported to the Massachusetts Department of Revenue for the previous calendar year;
 - (b) The gravity of the violation;
 - (c) The degree to which the TNC exercised good faith in attempting to achieve compliance or to remedy non-compliance;
 - (d) Degree of compliance with existing state and local rules and regulations; and
 - (e) Any previous violations by the TNC cited by the Division.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(3) The gravity of the violation shall include, but not be limited to, a review of the following;

- (a) Physical harm;
- (b) Economic harm;
- (c) Harm to the regulatory process;
- (d) Number and scope of violations;
- (e) Ability to control the violations; and
- (f) The degree of the TNC's compliance with payment of tolls at the commercial rate pursuant to M.G.L. c. 159A½, § 3(c)(v).

(4) If a Driver receives a citation, as defined by M.G.L. c. 90C, § 1, for a violation under M.G.L. c. 159A½, § 7(a), regardless of the disposition, each TNC for which the Driver provides Services shall be subject to a \$500 monetary penalty by the Division. Each TNC subject to the fine shall have 30 calendar days to rebut the presumption that the Driver provided Services at the time of violation.

(5) The Division may establish guidelines related to the financial penalties applicable for a TNC violation of M.G.L. c. 159A½, 220 CMR 274.00-277.00, or a Division rule or order.

276.09: Severability

The provisions of 220 CMR 276.00 shall be deemed severable if any particular provision(s) is (are) rendered invalid by judicial determination or by statutory amendment.

REGULATORY AUTHORITY

220 CMR 276.00: M.G.L. c. 25, § 23(a) and M.G.L. c. 159A½, §§ 2(m) and 6.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 277.00: TRANSPORTATION NETWORK VEHICLE ELECTRIFICATION

- 277.01: Purpose & Scope
- 277.02: Definitions
- 277.03: Vehicle Electrification
- 277.04: Incentive Programs
- 277.05: Ride Offerings
- 277.06: Educational Programs
- 277.07: Biennial Plans
- 277.08: Annual Reports
- 277.09: Enforcement
- 277.10: Variance
- 277.11: Severability

277.01: Purpose & Scope

(1) Purpose. The purpose of 220 CMR 277.00 is to establish programs and requirements by which Transportation Network Companies reduce greenhouse gas emissions and increase usage of Zero-Emission Vehicles in accordance with goals set by the Massachusetts Executive Office of Energy and Environmental Affairs.

(2) Scope. 220 CMR 277.00 applies to every Transportation Network Company, Transportation Network Driver, and Transportation Network Vehicle within the Commonwealth. Nothing contained in 220 CMR 277.00 shall be interpreted to limit the authority granted to the Transportation Network Company Division by M.G.L. c. 25 or M.G.L. c. 159A½.

277.02: Definitions

Unless otherwise specified, capitalized terms shall have the meaning ascribed to them in 220 CMR 277.02. The Definitions set forth in 220 CMR 274.02 apply in 220 CMR 277.00, unless otherwise specified.

Battery Electric Vehicle or BEV. A vehicle that has only a battery and electrical motor components and uses electricity as the only power source.

Digital Network. As defined by 220 CMR 274.02.

Electric Vehicle Miles Traveled or eVMT. The miles traveled within the Commonwealth of Massachusetts for trips wholly within Massachusetts by a Battery Electric Vehicle, Mild Hybrid Electric Vehicle, Strong Hybrid Electric Vehicle, Plugin Hybrid Electric Vehicle, Fuel Cell Electric Vehicle, and Zero Emission Vehicle. In addition, for interstate trips that originate within Massachusetts, eVMT shall include those miles within Massachusetts.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

Fleet Vehicle. A Vehicle that is: (a) owned, leased, or rented by a Transportation Network Company for the purpose of providing Transportation Network Services or (b) otherwise made available to a Driver by a TNC through rental, lease, or similar programs.

Fuel Cell Electric Vehicle or FCEV. A vehicle that uses a full electric drive platform but consumes electricity generated by onboard fuel cells and hydrogen fuel

Greenhouse Gas or GHG. As defined by 310 CMR 7.71(2).

Mass-transit Facility. Any location where Riders can connect with a train, commuter rail, bus or ferry provided by the Massachusetts Bay Transportation Authority or other Regional Transit Authority.

Mild Hybrid Electric Vehicle or Mild HEV. A vehicle that uses an electric motor to add assisting power to the internal combustion engine. The system has features such as stop-start, power assist, and a mild level of regenerative braking features.

Plug-in Hybrid Electric or PHEV. As defined by the National Highway Traffic Safety Administration.

Pre-arranged Ride or Ride. As defined by 220 CMR 274.02.

Strong Hybrid Electric Vehicle or Strong HEV. A vehicle that mainly consists of motors, conventional gasoline engine, and battery, but the source of electrical charge of the battery power is provided by the conventional engine and/or regenerative braking.

Transportation Network Company or TNC. As defined by 220 CMR 274.02.

Transportation Network Driver or Driver. As defined by 220 CMR 274.02.

Transportation Network Vehicle or Vehicle. As defined by 220 CMR 274.02.

Vehicle Miles Traveled or VMT. The miles traveled by a Vehicle within the Commonwealth of Massachusetts for trips wholly within Massachusetts. In addition, for interstate trips that originate within Massachusetts, VMT shall include those miles within Massachusetts.

Zero-Emission Vehicle or ZEV. As defined by M.G.L. c. 25A, § 16.

277.03: Vehicle Electrification

(1) One year after publication of 220 CMR 277.00 in the Massachusetts Register, all Fleet Vehicles shall be ZEVs.

(2) The provisions of 220 CMR 277.03 shall not apply to wheelchair accessible Vehicles or paratransit Vehicles.

277.04: Incentive Programs

(1) Within six months of publication of 220 CMR 277.00 in the Massachusetts Register, a TNC shall file for the Division's review and approval, and subject to other requirements that the Division may set, financial incentive programs to reduce the cost for eligible Drivers to provide Rides with ZEVs. Such Drivers shall, according to the address on their driver's license, reside in a census block group where the annual median household income is not more than 65% of the statewide annual median household income. At minimum, a TNC's proposed incentive programs shall:

- (a) Target high-mileage Drivers, and
- (b) Increase the availability of Fleet Vehicles that are ZEVs while lowering the costs to Drivers to rent or lease a ZEV that is a Fleet Vehicle.

(2) An incentive program established by a TNC under 220 CMR 277.04(1) may be subject to audit by the Division or a mutually agreed upon third party. If an audit is conducted by an agreed upon third party, the cost of the audit shall be borne and paid by the TNC that is under audit.

277.05: Ride Offerings

(1) Within six months of publication of 220 CMR 277.00 in the Massachusetts Register, unless otherwise provided by the Division, a TNC shall, at a minimum, offer the following types of Ride options from which Riders may select:

- (a) Rides provided by ZEVs; and
- (b) Shared Rides.

277.06: Educational Programs

Within three months of publication of 220 CMR 277.00 in the Massachusetts Register, a TNC shall provide Drivers and prospective Drivers with educational information regarding incentives, benefits, and programs for purchasing, leasing, and renting a ZEV for personal use and to provide Rides in Massachusetts. The Division shall review and approve such educational information provided by a TNC.

277.07: Biennial Plans

(1) One year after publication of 220 CMR 277.00 in the Massachusetts Register, and every two years thereafter, a TNC shall submit a plan for review and approval by the Division that describes the TNC's strategies to comply with the goals and objectives of 220 CMR 277.00.

(2) Biennial plans shall detail the TNC's efforts to reduce GHG emissions and increase eVMT in accordance with the limits and sublimits set by the Secretary of Energy and Environmental Affairs pursuant to M.G.L c. 21N §§ 3 and 3A.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

- (3) Biennial plans shall detail efforts and initiatives to minimize negative impacts on Drivers from census block groups where the annual median household income is not more than 65% of the statewide annual median household income.
- (4) Biennial plans shall outline how a TNC will accomplish the following:
 - (a) Increase the use of ZEVs to provide Rides;
 - (b) Increase Shared Rides;
 - (c) Reduce P1 and P2 VMT relative to P3 VMT;
 - (d) Increase Rides originating or terminating at a Mass-transit Facility; and
 - (e) Increase Driver and Rider education for acquiring ZEVs for personal use and choosing ZEVs for providing Rides.
- (5) Biennial plans shall explain the TNC's plan to comply with the requirements and goals of 220 CMR 277.00, include detailed measurements of progress, and articulate achievable initiatives to meet the requirements and goals of 220 CMR 277.00.
- (6) Biennial plans shall include two-year projected:
 - (a) Annual Vehicle population, exclusive of Fleet Vehicles;
 - (b) Annual Vehicle GHG emissions, exclusive of Fleet Vehicles;
 - (c) Annual Fleet Vehicle population;
 - (d) Annual BEV and FCEV proportion of Fleet Vehicle population;
 - (e) Annual Fleet Vehicle GHG emissions;
 - (f) Annual average number of Riders for Vehicles, exclusive of Fleet Vehicles;
 - (g) Annual average number of Riders for Fleet Vehicles;
 - (h) Total annual VMT, excluding Fleet Vehicles;
 - (i) Total annual Fleet Vehicle VMT;
 - (j) Annual percent eVMT;
 - (k) Strategies for increasing average Vehicle and Fleet Vehicle occupancy.

277.08: Annual Reports

- (1) Beginning on April 1, 2027, a TNC shall submit an annual compliance report covering the prior calendar year. The annual report shall include actual data for information covered by 220 CMR 277.07(6).
- (2) The annual report shall include the following information for each Ride originating or terminating at a Mass-transit Facility:
 - (a) Date and time of Ride origination;
 - (b) Latitude/longitude of Ride origination;
 - (c) Date and time of Ride termination;
 - (d) Latitude/longitude of Ride termination;
 - (e) Ride VMT;
 - (f) Name of Mass-transit Facility; and
 - (g) Whether Rider connected or plans to connect to mass transit.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(3) The annual report shall include the number of trips and VMTs within Massachusetts for Vehicles that provided a Ride originating in Massachusetts but terminating outside of Massachusetts and originating outside of Massachusetts but terminating within Massachusetts.

277.09: Enforcement

If a TNC is found in violation of 220 CMR 277.00, the Division shall take appropriate enforcement action, as provided by G.L. c. 159A½, § 6(a), 220 CMR 276.06, 220 CMR 276.07, and 220 CMR 276.08 including, but not limited to, the assessment of civil penalties or the revocation of a TNC Permit.

277.10: Variance

Upon application of the TNC and for good cause shown, the Division may permit variance from 220 CMR 277.00.

In evaluating whether good cause exists to grant a variance from 220 CMR 277.00, the Division shall evaluate the interest of the TNC in obtaining the variance, the interests of any other affected party, and the public interest. The Division shall further consider the integrity and purposes of the underlying regulatory framework. Good cause may include consideration of the size of the TNC and its resources and capabilities to comply with the provision from which it requests a variance.

A TNC seeking a variance from the provisions of 220 CMR 277.00 must make such request in writing to the Division. The TNC must provide written justification and documentation, as appropriate, to support its good cause variance, including the criteria in 220 CMR 277.10(1). A written request for a variance shall not stay or otherwise modify any obligation of a TNC pending the Division's decision on the request.

277.11: Severability

The provisions of 220 CMR 27.00 shall be deemed severable if any particular provision(s) is (are) rendered invalid by judicial determination or by statutory amendment.

REGULATORY AUTHORITY

220 CMR 277.00: M.G.L. c. 25, § 23(a); M.G.L. c. 159A½; St. 2022, c. 176, § 23; St. 2022, c. 179, §§ 47, 92.