

Resolution #TC-2021-07-08

Commence Permanent Rulemaking and Delegate Authority to an Administrative Hearing Officer to Conduct a Public Rulemaking Hearing for the Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions (“the Planning Rules”), 2 CCR 601-22.

Approved by the Transportation Commission on July 15, 2021.

WHEREAS, transportation is a complex sector involving thousands of Coloradoans individual choices about how they travel on Colorado roads; and

WHEREAS, the 10-year Plan for the Colorado Department of Transportation (“CDOT”) and Metropolitan Planning Organizations (“MPOs”) Regional Transportation Plans have the ability to affect the transportation decisions of the traveling public in Colorado; and

WHEREAS, Senate Bill 21-260 directs the Transportation Commission of Colorado (“the Commission”) to adopt procedures and guidelines requiring CDOT and MPOs to take additional steps in the planning process for regionally significant transportation projects to account for the impacts on the amount of statewide GHG pollution and statewide vehicle miles traveled that are expected to result from those projects; and

WHEREAS, Senate Bill 21-260 also specifies implementing relevant measures pursuant to § 25-7-105, C.R.S.; reducing GHG emissions to help achieve statewide GHG pollution reduction targets established in House Bill 19-1261 (now codified in § 25-7-102(2)(g) and 105(1)(e), C.R.S.); and considering the role of land use in the transportation planning process; and

WHEREAS, § 43-1-106(8)(k), C.R.S. authorizes the Commission to make all necessary and reasonable orders, rules, and regulation to carry out its authority and duties; and

WHEREAS, pursuant to § 43-1-106(8)(b), C.R.S., one of the Commission’s duties is to assure the preservation and enhancement of Colorado’s environment in the planning, selection, construction, and operation of all transportation projects in Colorado; and

WHEREAS, § 43-1-1103(5), C.R.S. authorizes the Commission to promulgate rules regarding the formation of the state plan through a statewide planning process; and

WHEREAS, the Commission proposes to amend the Planning Rules to integrate the establishment of a GHG pollution-reduction standard, including compliance and enforcement requirements, in accordance with House Bill 19-1261 and Senate Bill 21-260; and

WHEREAS, the proposed amendments will consist of the following elements; including provisions outlining CDOT and MPO applicability, new definitions, emissions reduction tables, compliance, reporting and enforcement requirements; and

WHEREAS, the Commission recognizes the need for ample public comment and notes this Resolution begins the process but does not set the timeline for the formal review process; and

WHEREAS, the Commission also recognizes that the publication of the proposed amendments provide an important opportunity for the public to review and comment on the rule changes and fully participate in the rulemaking process; and

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

WHEREAS, the Commission established the Ad Hoc Agency Coordination Committee (“ACC”) chaired by Commissioner Hickey to act as liaison for the Commission throughout the rulemaking process, work with staff to amend the Planning Rules and ensure affected and interested parties are provided with notice and opportunity to comment under the requirements of the State Administrative Procedure Act.

NOW THEREFORE BE IT RESOLVED, the Commission authorizes staff and the ACC to take all necessary actions in accordance with the State Administrative Procedure Act to initiate rulemaking for the purpose of amending the Planning Rules, 2 CCR 601-22.

NOW THEREFORE BE IT FURTHER RESOLVED, the Commission delegates the ACC the responsibility to review and approve the draft rule prior to the Department’s filing of the proposed rules with the Secretary of State.

NOW THEREFORE BE IT FURTHER RESOLVED, the Commission delegates its authority to conduct the permanent rulemaking hearing to a CDOT Administrative Hearing Officer to prepare a complete record of the hearing in collaboration with the ACC and forward said record and proposed rules to the Commission for consideration and adoption.

NOW THEREFORE BE IT FURTHER RESOLVED, the formal rulemaking filing shall include a list of public hearings that shall be held across the state.

Herman F. Stockinger III

Herman Stockinger, Secretary
Transportation Commission of Colorado

7-15-2021

Date