

Resolution #TC-2022-07-09

Adopt proposed emergency changes to the Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions (“the Planning Rules” or “Rules”), 2 CCR 601-22, to clarify language related to the GHG pollution-reduction standard and restrictions on funds.

Approved by the Transportation Commission on July 21, 2022.

WHEREAS, Senate Bill 21-260 directs the Transportation Commission of Colorado (“the Commission”) to adopt procedures and guidelines requiring CDOT and Metropolitan Planning Organizations (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, § 43-1-106(8)(k), C.R.S. authorizes the Commission to make all necessary and reasonable orders, rules, and regulations to carry out its authority and duties; 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, on December 16, 2021, the Commission adopted revisions to 2 CCR 601-22, including language setting GHG pollution-reduction standards across the state, including a restriction on funds for CDOT and MPOs that fail to meet the reduction standards; and

WHEREAS, CDOT, working with the Commission’s Ad Hoc Agency Coordination Committee (ACC), the Colorado Attorney General’s Office, and transportation planning partners, has determined a clarification is necessary to the Planning Rules to clarify the intent of the Rules that plans adopted prior to October 1, 2022 that do not meet the required GHG reduction levels as outlined in the Rules would have both the statutory restriction on funds and the restrictions on funds as outlined in the Rules apply; and

WHEREAS, Colorado State Government rulemaking is governed by the Colorado Administrative Procedures Act (APA) and § 24-4-103(6)(a), C.R.S., of the APA outlines the process for the adoption of emergency rules without a rulemaking hearing; and

WHEREAS, §24-4-103(6)(a), C.R.S., allows for emergency rules to be adopted without prior public notice where circumstances imperatively require and only if the Commission and CDOT find that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of the APA would be contrary to the public interest; and

WHEREAS, on July 12, 2022, CDOT staff conducted an open meeting in which interested parties to the Planning Rules were invited to hear the changes to the Planning Rules being proposed, and no concerns were raised at that meeting; and


WHEREAS, based on recommendations of CDOT staff and the Attorney General’s Office, the Commission finds that immediate adoption of the changes proposed to 2 CCR 601-22 is imperatively necessary in the public interest to clarify the Rules’ intent and for the preservation of public health; and

WHEREAS, the Commission understands that these emergency rules may only be in place for one-hundred twenty days unless adopted as permanent rules consistent with §24-4-103(2.5) and (2.7),

C.R.S.

NOW THEREFORE BE IT RESOLVED, after review and consideration of the proposed changes to the rules, the Commission adopts the proposed changes to the Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions, 2 CCR 601-22 attached as Exhibit A.

Herman
Stockinger

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Stockinger
Date: 2022.07.21 11:35:36
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Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Emergency Rules to be Adopted in July

DEPARTMENT OF TRANSPORTATION

Transportation Commission

RULES GOVERNING STATEWIDE TRANSPORTATION PLANNING PROCESS AND TRANSPORTATION PLANNING REGIONS

2 CCR 601-22

8.02.5 Timing for Determining Compliance

8.02.5.1 By October 1, 2022, CDOT shall update their 10-Year Plan and DRCOG and NFRMPO shall update their RTPs ~~pursuant to § 43-4-1103, C.R.S.~~ and meet the reduction levels in Table 1 or ~~MMOF will be restricted the requirements~~ pursuant to § 43-4-1103, C.R.S. and the restrictions set forth in Rule 8.02.6.4, as applicable, shall also apply and restrictions on funds

8.02.5.2 CDOT must for each Applicable Planning Document, adopted or amended after October 1, 2022, meet either the reduction levels within Table 1 for Non-MPO areas or the requirements as set forth in Rule 8.02.6.4.1.

8.02.5.3 MPOs must for each Applicable Planning Document adopted or amended after October 1, 2022, meet either the corresponding reduction levels within Table 1, or the relevant MPO and CDOT each must meet the requirements as set forth in Rule 8.02.6.4.2 or Rule 8.02.6.4.3, as applicable. This provision shall not apply to MPO TIP Amendments.

