

**Resolution # TC-2040**

**Open Rule Making and Delegate Authority to an Administrative Hearing Officer to conduct a hearing regarding amendments to the Rules Regarding the Use of Waste Tires for Noise Mitigation Purposes Along Colorado State Highways Pursuant to §43-2-401 *et seq.* C.R.S. (2011).**

**Approved by the Transportation Commission on: November 17, 2011**

WHEREAS, section § 43-2-404 C.R.S. (2011) authorizes the Transportation Commission of Colorado ("Commission") to promulgate rules regarding § 43-2-401 *et seq.* (2011) including noise mitigation standards and measures; and

WHEREAS, the permanent Rules Regarding the Use of Waste Tires for Noise Mitigation Purposes Along Colorado State Highways Pursuant to §43-2-4-1 *et seq.* C.R.S (the "Use of Waste Tire Noise Mitigation Rules") were effective August 1, 2008; and

WHEREAS, the Commission has the authority to conduct a rule making hearing or to delegate the authority to an Administrative Hearing Officer for the purposes of conducting the rule making 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 amendment to the Use of Waste Tire Noise Mitigation Rules; and

WHEREAS, the Department recommends the Use of Waste Tire Noise Mitigation Rules be amended to update noise mitigation standards and measures to conform to current federal requirements of 23 CFR 772; and

WHEREAS, amendment of the Use of Waste Tire Noise Mitigation Rules further effectuates Governor Hickenlooper's Executive Order D 2011-005, which seeks to eliminate any unnecessary legal requirements on local governments; and

NOW THEREFORE BE IT RESOLVED, the Commission authorizes staff to prepare a draft of the amended Use of Waste Tire Noise Mitigation Rules, and to take all necessary actions in accordance with the State Administrative Procedures Act to initiate rulemaking for the purpose of amending the Rules Regarding the Use of Waste Tires for Noise Mitigation Purposes Along Colorado State Highways Pursuant to § 43-2-401 *et seq.* C.R.S. (2011).

BE IT FURTHER RESOLVED, the Commission delegates its authority to conduct the rulemaking hearing to a CDOT Administrative Hearing Officer to prepare a complete record of the hearing and forward said record and Rules to the Commission for consideration and adoption of the Rules.

Herman A. Stockinger III  
Herman Stockinger, Secretary  
Transportation Commission of Colorado