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**DEPARTMENT OF TRANSPORTATION**

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**To:** Transportation Commission

**From:** Debra Perkins-Smith

**Re:** Open Statement of Basis and Purpose Section of Statewide Transportation Planning Rules

**Date:** December 28, 2012

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Executive Summary: The Office of Legislative Legal Services (“OLLS”) has requested that the Department add language to Rules Governing the Statewide Transportation Planning Process and Transportation Planning Regions (“Statewide Transportation Planning Rules”). This request is a routine component of the rule-making process: following adoption, the Office of Legislative Legal Services reviews all agency rules and may make any suggested changes.

1. Action Requested: Open Statement of Basis and Purpose section of Statewide Transportation Planning Rules.

2. Documents Included in this Agenda Submission

- A. Memorandum from D. Perkins-Smith to the Transportation Commission
- B. Amended Rules in red-line draft
- C. Proposed Resolution

3. Rationale for Amending Rules. The OLLS has requested that the following language in bold text be added to the Statement of Basis and Purpose section of the Statewide Transportation Planning Rules:

The Rules are intended to be consistent with and not be a replacement for the federal transportation planning requirements contained in 23 United States Code (U.S.C.) 134, 135 and 450 , PL 112-141 (“Moving Ahead for Progress in the 21<sup>st</sup> Century” or “MAP-21”) and its implementing regulations, where applicable, contained in 23 Code of Federal Regulations (CFR) Part 450, including Subparts A, B and C **and 25 CFR Part 170.421 in effect as of October 1, 2012, which are hereby incorporated into the Rules by this reference, and do not include any later amendments. All referenced laws and regulations shall be available for copying or public inspection during regular business hours from the Office of Policy and Government Relations, Colorado Department of Transportation, 4201 E. Arkansas Avenue, Denver, Colorado 80222.**

While this language is not a significant change, the Department must follow the formal process under the Administrative Procedure Act, which commences with the Transportation Commission opening the rules and delegating authority to an administrative hearing officer to hold a brief public hearing on this proposed change. Following a hearing, the Department will request that the Transportation Commission adopt the revised rules. The calendar for the amendment to the rules is anticipated to be the following:

January 17, 2013: Transportation Commission opens Rules.  
March 5, 2013: Administrative Hearing Officer Holds Rule-Making Hearing  
April 18, 2013: Transportation Commission adopts Rules  
May 15, 2013: Rules effective

This calendar will also include notification to stakeholders and interested parties, filing with the Colorado Secretary of State's Office, filing with the Department of Regulatory Agencies, review by the Office of the Attorney General, and a final review by the OLLS.

**Resolution # TC-**

**Open Rule Making and Authorize an Administrative Hearing Officer to Conduct a Hearing Concerning 2 CCR 601-22, Rules Governing the Statewide Transportation Planning Process and Transportation Planning Regions (“Statewide Transportation Planning Rules”).**

**WHEREAS**, § 43-1-106 (8)(k), C.R.S. directs the Transportation Commission of Colorado (“Commission”) to make all necessary and reasonable orders, rules, and regulations in order to carry out the provisions of § 43-1-101, *et seq.* C.R.S.; and

**WHEREAS**, the Commission adopted the Statewide Transportation Planning Rules on October 22, 2012 by Resolution # TC-3022; and

**WHEREAS**, in the required review process under the State Administrative Procedure Act, the Office of Legislative Legal Services has requested that the Department include certain language in the Statement of Basis and Purpose section of the rules; and

**WHEREAS**, the language is non-substantive in nature and incorporates by reference relevant federal authority and provides that a copy of the referenced federal authority may be acquired at the Colorado Department of Transportation; and

**WHEREAS**, the Commission may exercise its discretion to delegate its authority to an Administrative Hearing Officer for the purposes of conducting a rule making hearing, making a complete procedural record of the hearing, and submitting the record and any recommendations to the Commission for its review and action concerning the Rules.

**NOW THEREFORE BE IT RESOLVED**, the Commission authorizes staff to prepare a draft of the proposed Rules, and to take all necessary actions in accordance with the Colorado Administrative Procedures Act to initiate rule making for the purpose of amending the Statewide Planning Rules, 2 CCR 601-22.

**BE IT FURTHER RESOLVED**, the Commission delegates its authority to conduct the rule making hearing to an 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.

**DEPARTMENT OF TRANSPORTATION**

**Transportation Commission**

**RULES GOVERNING THE STATEWIDE TRANSPORTATION PLANNING PROCESS  
AND TRANSPORTATION PLANNING REGIONS**

**2 CCR 601-22**

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**STATEMENT OF BASIS AND PURPOSE AND STATUTORY AUTHORITY**

The purpose of the Rules is to prescribe the statewide transportation planning process through which a, long-range multimodal, comprehensive statewide transportation plan will be developed, integrated, updated, and amended by the Colorado Department of Transportation (Department), in cooperation with local governments, Metropolitan Planning Organizations, Regional Planning Commissions, Indian tribal governments, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, Federal Railroad Administration, U.S. Forest Service, Bureau of Land Management, Secretary of the Interior, National Park Service, other federal and state agencies, the private sector, transit and freight operators, and the general public. This cooperative process is designed to coordinate regional transportation planning, guided by the statewide transportation policy set by the Department and the Colorado Transportation Commission (Commission), as a fundamental basis for developing the statewide transportation plan. The result of the statewide transportation planning process shall be a long-range, financially feasible, environmentally sound, multimodal transportation system plan for Colorado.

Further, the purpose of the Rules is to define the state's Transportation Planning Regions for which long-range Regional Transportation Plans are developed, prescribe the process for conducting and initiating transportation planning in the non-MPO Transportation Planning Regions and coordinating with the Metropolitan Planning Organizations for planning in the metropolitan areas. Memorandums of Agreement ("MOA") between the Department and each MPO further prescribe the transportation planning process in the MPO transportation planning regions. In addition, the purpose of the Rules is to describe the organization and function of the Statewide Transportation Advisory Committee (STAC) as established by § 43-1-1104, Colorado Revised Statutes (C.R.S.).

The Rules are being promulgated to meet the intent of both the U.S. Congress and the Colorado General Assembly for developing a continuing, cooperative, and comprehensive statewide performance-based multimodal transportation planning process to address the transportation problems of the state by producing a statewide transportation plan. This plan will be implemented by systematic project prioritization and selection and budgeting of resources, utilizing a comprehensive input process.

The Rules are intended to be consistent with and not be a replacement for the federal transportation planning requirements contained in 23 United States Code (U.S.C.) 134, 135 and

450, PL 112-141 (“Moving Ahead for Progress in the 21<sup>st</sup> Century” or “MAP-21”) and its implementing regulations, where applicable, contained in 23 Code of Federal Regulations (CFR) Part 450, including Subparts A, B and C and 25 CFR Part 170.421 in effect as of October 1, 2012, which are hereby incorporated into the Rules by this reference, and do not include any later amendments. All referenced laws and regulations shall be available for copying or public inspection during regular business hours from the Office of Policy and Government Relations, Colorado Department of Transportation, 4201 E. Arkansas Avenue, Denver, Colorado 80222.

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The Statewide Planning Rules, as a component of the statewide plan, emphasize Colorado’s continually greater integration of multimodal, cost-effective and environmentally sound means of transportation. The Rules reflect the Department’s focus on multimodal transportation projects including highways, aviation, transit, rail, bicycles and pedestrians.

The Rules are promulgated by the Commission pursuant to the specific statutory authority found in § 43-1-1103 (5), C.R.S., and § 43-1-106 (8)(k), C.R.S.