



COLORADO

Department of Transportation

List of Exhibits for the
Rule-Making Hearing on

2 CCR 601-11

**Rules Governing Practice and Procedures of the
Transportation Commission of Colorado**

September 12, 2016

1:00 p.m.

CDOT Headquarters
Second Floor Auditorium
Denver, CO 80222

Rule-Making Hearing on the

Rules Governing Practice and Procedures of the Transportation Commission of Colorado

2 CCR 601-11 Index of Exhibits

Exhibit	Description
1	A. Memo to Transportation Commission dated July 21, 2016. B. Resolution No. TC-16-7-9 dated July 21, 2016 from the Transportation Commission opening the rule-making process and delegating authority to an administrative hearing officer.
2	A. SOS Notice of Rulemaking Confirmation dated July 28, 2016. B. Rules filed with the SOS to open rule making. C. Notice of Rulemaking Hearing published in Colorado Register on August 10, 2016.
3	A. DORA Notice of Rulemaking Confirmation dated July 28, 2016 B. Verification of DORA's Publication of Hearing Date C. DORA Notice to Stakeholders re: Cost-Benefit Analysis D. DORA Notice that no Cost-Benefit Analysis is necessary.
4	Printout of CDOT rules website indicating that CDOT posted rulemaking hearing date, time, and location on CDOT website on August 9, 2016.
5	A. List of Representative Group Members B. Email to Representative Group dated June 9, 2016 C. Comments on Rules from Representative Group Members. D. Email dated August 1, 2016 from Ms. Nevans to the Interested Party members. E. Email dated August 30, 2016 from Ms. Nevans to the Interested Party members advising them of subsequent changes to the rules and one comment.
6	A. Statement of Basis and Purpose B. Memo to maintain permanent rule making record C. Notice posted in lobby of CDOT
7	Redlined copy of 2 CCR 601-11, marked August 23, 2016.
8	HB 16-1172
9	Hearing Attendance Sheet

Exhibit 1



COLORADO
Transportation Commission

4201 East Arkansas Avenue, Room270
Denver, CO 80222-3406

DATE: July 21, 2016
TO: Transportation Commission
FROM: Mary Frances Nevans / Herman Stockinger
SUBJECT: Authorize Commencement of Rule-Making by Opening the Commission Rules, 2 CCR 601-11.

Purpose

To authorize the Department to commence the rule-making process by opening the Rules Governing Practice and Procedures of the Transportation Commission of Colorado ("Commission Rules"), 2 CCR 601-11.

Action

To pass a resolution authorizing the Department to commence rule-making by opening the Rules Governing Practice and Procedures of the Transportation Commission of Colorado ("Commission Rules"), 2 CCR 601-11, and delegate authority to an Administrative Hearing Officer to conduct a public hearing.

Background

CDOT has 22 sets of rules; of these, the Commission has statutory authority to promulgate 13 sets; the remaining 9 sets are under the authority of the Executive Director. The Commission Rules are under the authority of the Commission. Because administrative Rules have the force of law, any change in wording must follow the full process set forth in the Administrative Procedure Act. The many steps in this process include: requesting that stakeholders review the rule changes, requesting the Commission open the rule making process, gathering public input, holding a hearing, the Administrative Hearing Officer recommending a course of action to the Commission, requesting the Commission adopt the rules, and finally, requesting review by the Attorney General's Office.

Details

The Commission Rules were last updated on April 14, 2014. The proposed amendments to the Commission Rules are primarily a result of the passage of HB16-1172, which reestablished the Efficiency and Accountability Committee, clarified its role, and expanded its membership. The proposed amendments include:

- 1) Conforming the Commission Rules to HB 16-1172, which amended § 43-1-106(17), C.R.S. See Rule 3.01.5.
- 2) Changing the name of the Disadvantaged Business Enterprise ("DBE") Committee to the Small Business and Diversity ("SBD") Committee. See Rule 3.01.2.
- 3) Clarifying that the annual election of officers will be the last order of business at the regular June meeting, and stating that the elected officers' terms will begin on July 1 and expire on June 30 of the following year. See Rule 2.06.
- 4) Changing the number from four to at least three Commission members on committees. See Rules 3.01.1, 3.01.2, 3.01.3, and 3.01.4.



Key Benefits

The proposed changes in the Commission Rules align with HB 16-1172, clarify the election of officers, make the Commission membership on standing committees consistent, and clarify current practice.

Options and Recommendations

- 1) Authorize the Department to open the Rules and delegate authority to an Administrative Hearing Officer to hold a public rule-making hearing (staff recommendation);
- 2) Defer the decision to open the rules pending the provision of additional information; or
- 3) Decline to open the rules at this time.

Attachments

Resolution

Red-line copy of Rules showing proposed amendments



Resolution # TC-16-7-9

Open Rule-Making and Delegate Authority to an Administrative Hearing Officer to Conduct a Public Rule-Making Hearing Regarding Amendments to the Rules Governing Practice and Procedures of the Transportation Commission of Colorado ("Commission Rules"), 2 CCR 601-11.

Approved by the Transportation Commission on July 21, 2016.

WHEREAS, § 43-1-106(6), C.R.S., authorizes the Transportation Commission of Colorado ("Commission") to adopt rules in relation to its meetings and the transaction of its business; and

WHEREAS, the proposed amendments to the Commission Rules are primarily based on statutory changes resulting from legislation in 2016 (HB 16-1172) which amended § 43-1-106(17), C.R.S.; 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 Commission Rules; and

WHEREAS, the Department recommends the Commission Rules be amended to conform to the statutory language in the above referenced legislation; and

WHEREAS, proposed amendments of the Commission Rules further effectuate Governor Hickenlooper's Executive Order 2012-002, which directs all state agencies to review and update any existing rules to confirm that they are effective, efficient and essential; and

NOW THEREFORE BE IT RESOLVED, the Commission authorizes staff to prepare a draft of the amended Rules, and to take all necessary actions in accordance with the State Administrative Procedure Act to initiate rule-making for the purpose of amending the Rules Governing Practice and Procedures of the Transportation Commission of Colorado, 2 CCR 601-11.

BE IT FURTHER RESOLVED, the Commission delegates its authority to conduct the rule-making 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 Stockinger, Secretary
Transportation Commission of Colorado


Date of Approval

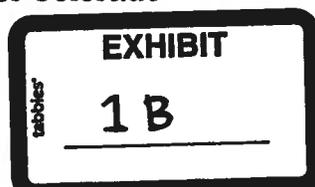


Exhibit 2



Agency Rulemaking Home
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Notice of Rulemaking Confirmation

Official Publication of the State Administrative Rules (24-4-103(11) C.R.S.)

Date Filed: July 28, 2016 16:54:37

Please print this page for your records

REMEMBER: You must submit your proposed rules to DORA's Office of Policy, Research and Regulatory Reform at the time of filing this notice with the Secretary of State, as required by section 24-4-103(2.5) C.R.S.
 Link https://www.dora.state.co.us/pls/real/SB121_Login

**Your notice of rulemaking has been submitted to the Secretary of State.
 Your tracking number is 2016-00358.**

Department	600 - Department of Transportation
Type of Filing	Permanent
Agency	601 - Transportation Commission and Office of Transportation Safety
CCR Number	2 CCR 601-11
CCR Title	RULES GOVERNING PRACTICE AND PROCEDURES OF THE TRANSPORTATION COMMISSION OF COLORADO
Hearing Date	09/12/2016
Hearing Time	01:00 PM
Hearing Location	CO Department of Transportation, Auditorium, 4201 E. Arkansas Ave., Denver, CO 80222
Description	The purpose of these rules is to set forth provisions governing the Transportation Commission's actions, administrative practices, and transaction of business. The Transportation Commission is updating its rules to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions. The authority under which the Transportation Commission of Colorado shall establish these rules is set forth in § 43-1-106(6) and § 43-1-106(8)(k), C.R.S.
Statutory Authority	§ 43-1-106(6), § 43-1-106(8)(k), and recent amendments to § 43-1-106(17)(a), C.R.S. as a result of House Bill 16-1172.
Proposed Rule	ProposedRuleAttach2016-00358.rtf
Additional Information	AddInfoAttach2016-00358.rtf
Comments	If you require special accommodations, please call (303) 757-9441 at least one week prior to the hearing date.
Contacts for Public	
Name	Mary Frances Nevans
Title	Rules Administrator
Phone	(303) 757-9723
Email	maryfrances.nevans@state.co.us

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DEPARTMENT OF TRANSPORTATION

Transportation Commission

Rules Governing Practice and Procedures of the Transportation Commission of Colorado

2 CCR 601-11

Statement of Basis, Purpose, and Statutory Authority

The purpose of these rules is to set forth provisions governing the Transportation Commission's actions, administrative practices, and transaction of business. In 2014, the rules were updated to make one substantive change to rule 2.06 (changing the annual election of officers from the August regular meeting to July) and to otherwise make numbering and other non-substantive changes. In 2016, the rules were updated to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions. The authority under which the Transportation Commission of Colorado shall establish these rules is set forth in § 43-1-106(6) and § 43-1-106(8)(k), C.R.S.

1.00 Definitions

- 1.01 "Ad Hoc Committee" shall mean a committee created by the Commission for the purpose of addressing a specific need of a non-continuous nature.
- 1.02 "Bridge Enterprise Board of Directors" shall mean a type 1 board as defined in § 24-1-105, C.R.S., and shall be comprised of the members of the Transportation Commission of Colorado pursuant to § 43-4-805(2) C.R.S.
- 1.03 "Commission" shall mean the Transportation Commission of Colorado.
- 1.04 "Department" shall mean the Colorado Department of Transportation.
- 1.05 "Executive Director" shall mean the Executive Director of the Colorado Department of Transportation.
- 1.06 "Headquarters" shall mean 4201 East Arkansas Avenue, Denver, Colorado 80222the Colorado Department of Transportation's headquarters building, the address for which is provided on the Colorado Department of Transportation's website.
- 1.07 "HPTE Board" shall mean the Board of Directors of the High Performance Transportation Enterprise pursuant to § 43-4-806(2)(a), C.R.S., which shall be a type 1 board as defined in § 24-1-105, C.R.S., and shall include three members of the Transportation Commission appointed by resolution of the Commission.
- 1.08 "Meeting" shall mean any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication pursuant to § 24-6-402(1)(b), C.R.S.
- 1.09 "Secretary" shall mean the Secretary of the Transportation Commission of Colorado.



1.10 "Standing Committee" shall mean a committee created by the Commission to address a general need of a continuous nature.

1.11 "State" shall mean the State of Colorado.

2.00 Commission Members – Elections – Appointments - Successions

2.01 The Commission consists of eleven members, appointed by the Governor with the consent of the Senate for terms of four years. Each Commissioner shall reside in the district the Commissioner represents.

2.02 All members of the Commission shall take an oath of office prescribed by the constitution of the state for state officers and the oath shall be filed by the Secretary in the Office of the Secretary of State.

2.0.3 The members of the Commission and their successors shall constitute a body corporate to be known as the "Transportation Commission of Colorado"; shall have the power to adopt and use a common seal and to change and alter such seal at will; and shall have and exercise all powers necessarily incident to a body corporate.

2.04 All members of the Commission shall also serve as members of the Bridge Enterprise Board of Directors.

2.05 Three members of the Commission shall be appointed by Commission [ratifying](#) resolution to serve on the Board of Directors of the High Performance Transportation Enterprise.

2.06 Annual election of officers shall be the ~~first-last~~ order of business at the Commission's regular ~~July-June~~ meeting. [The elected officers' terms shall begin on July 1, and expire on June 30 of the following year.](#)

2.07 The Commission shall elect a Chairman, Vice Chairman and Secretary to serve for one year or until successors are elected.

2.08 The Chairman shall preside at all regular meetings of the Commission. The Chairman shall be a member of the Commission.

2.09 The Vice Chairman, in the absence or disability of the Chairman shall perform the duties of the Chairman. The Vice Chairman shall be a member of the Commission.

2.10 In the absence or disability of the Chairman or Vice Chairman, the Commission shall elect from its members present a Chairman pro tempore who shall perform the duties of the Chairman for that meeting.

2.11 The Secretary shall assist the Chairman in conducting the meetings of the Commission and shall keep the books and records of the Commission. The Secretary shall be a member of the Department staff.

3.00 Committees of the Commission

3.01 The Commission may create Standing Committees by full consent of the Commission as it deems necessary. ~~As part of the annual election of officers, m~~Members shall be appointed by the Chairman, with the consent of the full Commission, to all existing Standing Committees.; ~~m~~Members so appointed shall [begin serving by the July regular meeting on the respective Committees and](#) serve for one year or until their successors are appointed. [The Commission shall](#)

ratify the appointments of members to Standing Committees by resolution. The Commission has created the following Standing Committees:

- 3.01.1 The Audit Review Committee ("ARC"), which shall be comprised of at least three but no more than five members of the Commission who shall meet periodically with executive management and the Audit Director to review audits, reports and activities of the internal Audit Division. ~~Any Commissioner may refer an audit or a report to the full Commission for consideration.~~
- 3.01.2 The Small Business and Diversity ("SBD") Disadvantaged Business Enterprises ("DBE") Committee, which shall be comprised of at least ~~four~~ three but no more than five members of the Commission who shall meet periodically with executive management and the ~~DBE Director of the Civil Rights and Business Resource Center program administrator~~ to review the ~~DBE-civil rights and small business~~ programs.
- 3.01.3 The Safety Committee, which shall be comprised of at least ~~four~~ three but no more than five members of the Commission who shall meet periodically with executive management to review the safety program.
- 3.01.4 The Transit and Intermodal Committee ("T&I Committee"), which shall be comprised of at least ~~four~~ three but no more than five members of the Commission who shall meet periodically with executive management and the Division of Transit and Rail Director to review transit and rail policies and practices.
- 3.01.5 The Efficiency and Accountability Committee, which is reestablished pursuant to § 43-1-106(17)(a), C.R.S., ~~which~~ shall seek ways to maximize the efficiency and accountability of the Department and the Transportation Commission to allow increased investment in the transportation system over the short, medium, and long term, in compliance with § 43-1-106(17)(a), C.R.S.
 - A. Membership shall include, from the Executive Branch of the state government:
 1. One member of the Commission designated by the Commission;
 2. One member of the Office of the Executive Director designated by the Executive Director;
 3. One member from each of the divisions of the Department created in ~~section~~§ 43-1-104(1) C.R.S., designated by the Executive Director after consultation with the directors of each division; and
 4. Any other employees of the Department the Executive Director may designate.
 - B. Membership shall include, from the Legislative Branch of the state government:
 1. Two members of the House of Representatives, one appointed from the majority party by the speaker of the House of Representatives and one appointed from the minority party by the minority leader of the House of Representatives, pursuant to § 43-1-106(17); and
 2. Two members of the Senate, one appointed from the majority party by the president of the Senate and one appointed from the minority party by the senate minority leader, pursuant to § 43-1-106(17).

B.C. Membership shall include, from outside state government, representatives of:

1. The construction Industry;
2. The engineering industry;
3. The environmental community;
4. Transportation planning organizations;
5. Public transportation providers; ~~and~~
6. Counties;
7. Municipalities;
8. Nonpartisan good governance organizations;
9. Any other industries or groups that the Commission determines should be represented on the committee; ~~and~~.
10. Any individuals or representatives of informally constituted groups of individuals that the Commission determines should be represented on the Committee.

D.G. The Efficiency and Accountability Committee shall periodically report to the Commission and the Executive Director regarding means by which the Commission and the Department may execute their duties more efficiently. The Executive Director or the Director's designee shall report at least once per calendar year to either the committees of the House of Representatives and the Senate that have jurisdiction over transportation or the Transportation Legislation Review Committee regarding their activities and recommendations and any actions taken by the Commission or Department to implement recommendations of the committee.

E. A member of the Efficiency and Accountability Committee who has a personal or private interest that could reasonably be expected to be affected if the Commission or the Department implements a proposed Committee recommendation shall disclose the interest to the Committee and shall abstain from any Committee vote to adopt or reject the recommendation.

3.02 The Chairman, with the consent of a majority of the Commission members, may appoint Ad Hoc Committees as deemed necessary to provide for the efficient conduct of the Commission's business; such committees shall serve at the pleasure of the Chairman.

4.00 Commission Attendance and Notice to Commission of Scheduled Meetings

4.01 Each Commissioner is encouraged to attend the following:

4.01.1 All meetings and hearings of the Commission.

4.01.2 All meetings or gatherings of private groups or associations at which Commission representation is requested.

4.01.3 All organized official field trips of the Commission.

- 4.01.4 All meetings of the Department and private companies, groups or governmental entities which the Commissioner attends at the request of the Chairman or the Executive Director.
 - 4.01.5 All Commission meetings with Legislators, the Joint Budget Committee, the House Transportation and Energy Committee, and the Senate Transportation Committee.
 - 4.01.6 All meetings of any standing or Ad Hoc Committee to which a Commissioner is appointed.
 - 4.01.7 All meetings a Commissioner is assigned to attend as a representative of the Commission.
- 4.02 All absences of Commissioners at a meeting or hearing [of the Commission](#) shall be noted by the Secretary in the minutes of any meeting or hearing of the Commission. Commissioners are encouraged to notify the Secretary or Chairman in advance of any meeting or hearing if they will be unable to attend or if they will be absent from a portion of the meeting or hearing.
 - 4.03 If a Commissioner does not answer roll call at the beginning of the meeting, that Commissioner shall be deemed absent unless excused by the Chairman or his or her subsequent arrival is noted in the minutes.
 - 4.04 Except under special or emergency circumstances, the Secretary will provide to the Commission copies of material pertaining to items that require action within seven days of the meeting.
 - 4.05 Special meetings may be called by the Governor, the Executive Director, the Chairman or a majority of the members of the Commission. The Secretary shall provide notice of any special meeting to the Commission by mail or electronic mail no less than three days prior to the date of any special meeting. However, in case of emergency, a 24-hour notice shall be given by telephone or electronic mail. See § 43-1-106(6) C.R.S.
- 5.00 Schedule of Meetings – Meeting Location**
- 5.01 Except as provided in this section, regular meetings of the Commission shall be held on the third Thursday of each month and no less than eight times a year.
 - 5.02 A schedule of regular meetings of the Commission shall be established and adopted each ~~December-July~~ [for the upcoming such fiscal year](#). ~~By Commission action any such scheduled meeting may be canceled or rescheduled.~~
 - 5.03 The Chairman of the Commission may propose postponement or advancement of the time and date of any regular meeting for Commission action and the Chairman may remove items from the agenda or rearrange the order of the agenda items.
 - 5.04 The Commission meetings shall be held at Headquarters or at other locations throughout the state. The Commission will consider holding ~~one-third at least two~~ [of its meetings per 12-month period](#) outside the Denver area to enable persons throughout the state to attend its meetings and express their opinions to the Commission.
- 6.00 Public Notice of Meetings**
- 6.01 Public Notice of Commission meetings will be given as provided for in the Colorado Sunshine Act of 1972 (§ 24-6-401, *et seq.* C.R.S.).

6.02 All meetings of two or more members of the Commission at which public business is discussed or at which any formal action may be taken are declared to be public meetings and shall be open to the public at all times, excluding the convening of an executive session pursuant to Rule ~~7.098~~. See 24-6-402(2)(a), C.R.S.

6.03 Any meetings at which the adoption of any proposed policy, position resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the Commission is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. See § 24-6-402(2)(c), C.R.S.

6.04 The Commission shall be deemed to have given full and timely notice if the notice of the meeting is posted in the lobby of CDOT Headquarters and on CDOT's website, no less than twenty-four hours prior to the holding of the meeting.

6.05 In addition to the provisions of 6.04 of this rule, public notice of the regular meeting date and proposed agenda shall be posted by the Secretary in the lobby of the Headquarters and on CDOT's website at least five days prior to the meeting, or as soon as practicable.

7.00 Conduct of Meetings – Matters Coming Before the Commission

7.01 In any lawsuit or proceedings, all meetings of the Commission shall be presumed to have been duly called and regularly held.

7.02 Except for matters to be considered by the Commission in Executive Session pursuant to § 24-6-402(3)(a) or § 24-6-402(3)(b), C.R.S., all meetings of the Commission shall be open to the public and shall be conducted by the Chairman generally under Robert's Rules of Order, but may proceed on an informal basis.

7.03 A quorum of the Commission shall be six members. If a quorum of the Commission is present, a majority vote of the members present shall be required to carry any motion, order, regulation or other action of the Commission.

7.04 All formal action of the Commission shall be by resolution adopted at a regular or special meeting of the Commission as required by statute.

7.05 All resolutions originated by Department staff which require a legal determination must be approved as to legality and form by the Office of the Attorney General or its designee before being accepted as an action item on a Commission meeting agenda.

7.06 Persons or groups wishing to make a presentation at a Commission meeting or hearing may make a request to be placed on the agenda by contacting the Secretary in writing at CDOT Headquarters 4201 East Arkansas Avenue, Room 270, Denver, Colorado 80222 at least 17 days prior to the meeting. The public is encouraged to participate at these meetings.

~~7.07~~ The Secretary will furnish sign-in sheets for public comment at all meetings of the Commission. They will be available at the door of the meeting room.

~~7.087~~ Items which are not included or identified as action items in the public notice of the Commission meeting agenda may, nonetheless, be considered by the Commission for action at the noticed meeting on an emergency basis, provided that the items must be approved for action by either the Chairman or a majority of the Commissioners and that the Secretary must post public notice of such additional action items in accordance with the provisions of Section 6.00 of this rule.

~~7.098~~ Upon the announcement by the Commission to the public of the topic for discussion and after providing as much detail as possible without compromising the purpose for which the executive

session is authorized, and by the affirmative vote of two-thirds of its members, the Commission may hold an Executive Session at a regular or special meeting for the sole purpose of considering any of the matters described in § 24-6-402(3)(a) or § 24-6-402(3)(b), C.R.S.. No adoption of any proposed policy, position, resolution, rule, regulations, or formal action, except the review, approval, and amendment of the minutes of an executive session shall occur at any executive session that is not open to the public.

8.00 Records - Minutes

- 8.01 All meetings of the Commission shall be electronically recorded. ~~The audio files shall be kept permanently by the Secretary.~~
- 8.02 The Secretary shall make and maintain minutes of all Commission meetings. Minutes shall be written in the order in which the issues were considered at the meeting, shall be prepared promptly, and shall be open to public inspection. Minutes of each meeting shall state, by name, the Commissioners that are either present or absent and all Department executive management that are present.
- 8.03 Minutes shall include all matters considered and action taken, if any, but need not be a verbatim transcript. The minutes shall reflect the number of yea and nay votes on each action item and shall state by name the Commissioners voting yea or nay, if there is a division of the vote.
- 8.04 Minutes of any meeting shall be approved, rejected or modified at the next regular meeting. After approval or modification, minutes shall be signed by the Secretary and made a part of the Commission's records. A copy of the signed minutes of any Commission meeting shall be available to the public upon request.
- 8.05 The minutes and records of the Commission, books of account, and the seal of the Commission shall be kept in the office of the Secretary and shall be open to public inspection.
- ~~8.06 The Secretary will furnish sign-in sheets for all meetings of the Commission. They will be available at the door of the meeting room.~~
- 8.06 The Commission shall retain records in keeping with the requirements of § 24-80-101, et seq., C.R.S.; however, with regard to the electronic recording of executive sessions, the records shall be kept for ninety days pursuant to § 24-6-402(2)(d.5)(I)(E), C.R.S. The audio files shall be kept permanently by the Secretary.

9.00 Compensation – Reimbursement of Expenditures

- 9.01 Pursuant to § 43-1-106 (6), C.R.S., each member of the Commission shall receive seventy-five dollars per day for each regular or special meeting of the Commission actually attended and shall be reimbursed for his or her necessary expenses incurred in the discharge of such member's official duties and in accordance with Fiscal Rules and Commission policy.
- 9.02 Mileage rates for necessary travel shall be computed in accordance with § 24-9-104, C.R.S., as amended.

10.00 Standards of Conduct – Conflicts of Interest – Disclosure

- 10.01 A conflict of interest occurs whenever a Commissioner has privileged information or a financial interest which may influence or be reasonably perceived by the public as influencing the conduct of the Commissioner.

10.02 A Commissioner holds a position of public trust and has a fiduciary duty to carry out his or her duties for the benefit of the people of the state in a manner consistent with the applicable standards of conduct of § 24-18-101 through § 24-18-206, C.R.S. Each Commissioner shall comply with such standards, as follows:

10.02.1 A Commissioner shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which he has a direct or substantial financial interest.

10.02.2 "Financial interest" means a substantial interest held by an individual which is:

- (1) An ownership interest in a business;
- (2) A creditor interest in an insolvent business;
- (3) An employment or a prospective employment for which negotiations have begun;
- (4) An ownership interest in real or personal property;
- (5) A loan or any other debtor interest; or
- (6) A directorship or officership in a business.

10.03 However, a Commissioner may, prior to acting in a manner described above which may impinge on his or her fiduciary duty and the public trust, disclose the nature of his or her private interest in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his or her services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his or her interest. If he or she then performs the official act involved, he or she shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

11.00 Adoption of Rules and Regulations

11.01 All rulemaking proceedings authorized by law to be conducted by the Commission, or by a designee on behalf of the Commission, shall be conducted in accordance with the State Administrative Procedure Act ("APA"), § 24-4-101 *et seq.*, C.R.S.—

12.00 Commission Adjudicatory Hearings

12.01 Adjudicatory hearings may be conducted by the Commission on any issues within the Commission's jurisdiction or the hearing may be delegated by the Commission either to an Administrative Law Judge, in the Division of Administrative Hearings, Department of Administration, or to the Department of Transportation's Executive Director to act as the Hearing Officer. Hearings shall be conducted in accordance with the State Administrative Procedure Act ("APA") § 24-4-101, *et seq.* C.R.S., unless the Commission's or the Department of Transportation's enabling legislation provides otherwise.

12.02 In cases where the Department conducts adjudicatory hearings, either through the Executive Director or his designee, which may be but shall not be limited to the Chief Engineer or an Administrative Law Judge. The Executive Director, or his or her designee, shall file a written report with the Commission for review setting forth the evidence and the findings and the application of the findings to statutes and rules. Upon review, the Commission may then sustain findings or make new findings based upon the record.



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Colorado Register

Official Publication of the State Administrative Rules (24-4-103(11) C.R.S.)

August 10, 2016 - Volume 39 , No. 15

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Notices of proposed rulemaking

Department	Agency	Proposed rules	Hearing
Department of Education	Division of Public School Capital Construction Assistance	RULES PERTAINING TO THE ADMINISTRATION OF THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD	09/28/2016 01:00 PM
Department of Education	Division of Public School Capital Construction Assistance	BUILDING EXCELLENT SCHOOLS TODAY GRANT PROGRAM	09/28/2016 01:00 PM
Department of Natural Resources	Colorado Parks and Wildlife (405 Series, Parks)	CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS	09/08/2016 08:30 AM
Department of Natural Resources	Colorado Parks and Wildlife (405 Series, Parks)	CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS	09/08/2016 08:30 AM
Department of Natural Resources	Colorado Parks and Wildlife (406 Series, Wildlife)	CHAPTER W-5 - MIGRATORY BIRDS	09/08/2016 08:30 AM
Department of Natural Resources	Colorado Parks and Wildlife (406 Series, Wildlife)	CHAPTER W-6 - FALCONRY	09/08/2016 08:30 AM
Department of Natural Resources	Colorado Parks and Wildlife (406 Series, Wildlife)	CHAPTER W-13 - POSSESSION OF WILDLIFE, SCIENTIFIC COLLECTING, AND SPECIAL LICENSES	09/08/2016 08:30 AM
Department of Natural Resources	Colorado Parks and Wildlife (406 Series, Wildlife)	CHAPTER W-14 - WILDLIFE REHABILITATION	09/08/2016 08:30 AM
Department of Transportation	Transportation Commission and Office of Transportation Safety	RULES GOVERNING PRACTICE AND PROCEDURES OF THE TRANSPORTATION COMMISSION OF COLORADO	09/12/2016 01:00 PM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2	09/01/2016 01:00 PM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2	09/01/2016 01:00 PM
Department of Regulatory Agencies	Division of Professions and Occupations - State Physical Therapy Board	PHYSICAL THERAPIST LICENSURE AND PHYSICAL THERAPIST ASSISTANT CERTIFICATION	09/16/2016 09:00 AM
Department of Public Health and Environment	Air Quality Control Commission	REGULATION NUMBER 3 STATIONARY SOURCE PERMITTING AND AIR POLLUTANT EMISSION NOTICE REQUIREMENTS	10/20/2016 09:00 AM
Department of Public Health and Environment	Air Quality Control Commission	REGULATION NUMBER 7 CONTROL OF OZONE VIA OZONE PRECURSORS AND CONTROL OF HYDROCARBONS VIA OIL AND GAS EMISSIONS	10/20/2016 09:00 AM



Notice of Rulemaking Hearing

Tracking Number	2016-00358
Department	600 - Department of Transportation
Agency	601 - Transportation Commission and Office of Transportation Safety
CCR Number	2 CCR 601-11
Rule Title	RULES GOVERNING PRACTICE AND PROCEDURES OF THE TRANSPORTATION COMMISSION OF COLORADO

Rulemaking Hearing

Date	09/12/2016
Time	01:00 PM
Location	CO Department of Transportation, Auditorium, 4201 E. Arkansas Ave., Denver, CO 80222

Subjects and Issues Involved	The purpose of these rules is to set forth provisions governing the Transportation Commission's actions, administrative practices, and transaction of business. The Transportation Commission is updating its rules to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions. The authority under which the Transportation Commission of Colorado shall establish these rules is set forth in § 43-1-106(6) and § 43-1-106(8)(k), C.R.S.
Statutory Authority	§ 43-1-106(6), § 43-1-106(8)(k), and recent amendments to § 43-1-106 (17)(a), C.R.S. as a result of House Bill 16-1172.
Select this link to view the text of the Proposed Rule	ProposedRuleAttach2016-00358.rtf
Select this link to view important information regarding the Rulemaking Hearing, including information on attending the hearing and participating in the rulemaking	AddInfoAttach2016-00358.rtf

Exhibit 3



STATE OF
COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Proposed Rule Submitted - Transportation Commission Rules -

1 message

DORA_OPR_Website@state.co.us <DORA_OPR_Website@state.co.us>

To: maryfrances.nevans@dot.state.co.us

Thu, Jul 28, 2016 at 5:18 PM

The following Proposed Rule has been submitted to the Office of Policy, Research and Regulatory Reform:

Department: Department of Transportation

Rulemaking Agency: Transportation Commission

Rule ID: 6716

Title or Subject: Rules Governing Practice and Procedures of the Transportation Commission of Colorado

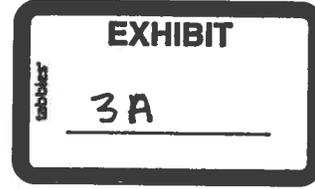
Submitted by: Mary Frances Nevans

Date Submitted: 07/28/2016

After your submission has been checked for completeness, it will be made available to the general public on DORA's website and email notifications will be sent to interested stakeholders.

In accordance with SB13-158, the public will have until Monday, August 15th, 2016 at midnight to request that the Department of Regulatory Agencies require your agency to prepare a cost-benefit analysis of these rules or amendments. You will be copied on all stakeholder requests for a cost-benefit analysis and DORA staff will contact you to discuss the requests. A second email notification will be sent if you are required to submit a cost-benefit analysis as a result of a public request.

Please contact us at DORA_OPR_Website@state.co.us if you have further questions regarding this e-mail message.



-  Home
-  My Proposed Rules
-  Submit New Rule
-  Reports
-  My Account
-  Help

Draft Proposed Rule

Verify Rule Data And Submit for Review

Department/Agency

Department: Department of Transportation
Rulemaking Agency: Transportation Commission

Update Agency

Proposed Rule Changes

Rule Type: Amended Rules
Title or Subject: Rules Governing Practice and Procedures of the Transportation Commission of Colorado
Short Description: Transportation Commission Rules
CCR Number: 2 CCR 601-11
Statutory Authority: 43-1-106(6) and 43-1-106(8)(k), C.R.S.
Website for Current Agency Rules: <https://www.codot.gov/business/rules>
Subject Matter/Purpose: The Transportation Commission is updating its rules to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions.

Colorado Register Publish Date: 08/10/2016
Text of Proposed Changes: [2CCR60111redline.pdf](#) (165K, Adobe Acrobat)
Submitted for Review: 07/28/2016

Update Rule

Rulemaking Hearing

Hearing Date: Monday, September 12, 2016 01:00 pm
Hearing Covers: Multiple Rules
Hearing Location: Colorado Department of Transportation, Auditorium
 4201 E. Arkansas Ave
 Denver, CO 80222
Hearing Notes: If you require special accommodation, please call (303) 757-9441 at least one week prior to the hearing.

Update Hearing

Contact Information

Public Contact Name: Mary Frances Nevans
Title: Rules Administrator
Email: maryfrances.nevans@state.co.us
Phone: 303-757-9723
Private Contact Name: Mary Frances Nevans
Title: Rules Administrator
Email: maryfrances.nevans@dot.state.co.us
Phone: 303-757-9723

Update Contacts

Subject Information

Related Subject Area(s): Transportation

Update Subjects

Review

Rule Status

Current Status: Rule Submitted for Review
Submitted: 07/28/2016 05:18 pm by: Mary Frances Nevans
DORA Regulatory Notice: pending
Public CBA Request: Currently accepting public requests
Public CBA Requests to date: [0](#)

Re-Submit For Review



Colorado Department of Regulatory Agencies

[Privacy Statement](#) | [Disclaimer](#)



STATE OF
COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

DORA Regulatory Notice: Transportation Commission - Transportation Commission Rules -

1 message

DORA_OPR_Website@state.co.us <DORA_OPR_Website@state.co.us>
To: maryfrances.nevans@dot.state.co.us

Fri, Jul 29, 2016 at 6:00 PM

Dear Stakeholder:

The Department of Transportation - Transportation Commission will be holding a rulemaking hearing on Monday, September 12th, 2016, 1:00 pm on rules regarding Transportation Commission Rules. The hearing will be held at: Colorado Department of Transportation, Auditorium, 4201 E. Arkansas Ave, Denver CO 80222.

The purpose of this rulemaking is:

The Transportation Commission is updating its rules to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions.

If you believe there will be a significant negative impact on small business, job creation or economic competitiveness, you may request that the Department of Regulatory Agencies require the rulemaking agency to prepare a cost-benefit analysis of a proposed rule or amendment. This request must be made to the Department of Regulatory Agencies by Monday, August 15th, 2016.

You may also submit comments directly to the rulemaking agency for the agency's consideration during the upcoming rulemaking hearing.

We hope this information is helpful to you. Thank you for taking the time to participate in the rulemaking process.

Bruce Harrelson
Director
Office of Policy, Research and Regulatory Reform

You have received this e-mail bulletin because you previously signed up for this service provided by the Department of Regulatory Agencies. If you do not want to receive further e-mails regarding the review of proposed rules, please visit https://www.dora.state.co.us/pls/real/SB121_Web.SignIn_Form and update your personal profile.





STATE OF COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

No Public Cost-Benefit Analysis Request for Rule - Transportation Commission Rules -

1 message

DORA_OPR_Website@state.co.us <DORA_OPR_Website@state.co.us>
To: maryfrances.nevans@dot.state.co.us

Fri, Aug 19, 2016 at 7:45 PM

The deadline for public Cost-Benefit Analysis requests has passed for the following Proposed Rule:

Department: Department of Transportation
Rulemaking Agency: Transportation Commission
Rule ID: 6716
Title or Subject: Rules Governing Practice and Procedures of the Transportation Commission of Colorado
Submitted by: Mary Frances Nevans
Date Submitted: 07/28/2016
Deadline for Public Cost-Benefit Analysis Request: August 15, 2016 11:59 pm

No public requests were received by the deadline. A Cost-Benefit Analysis is not required for this submission.

Please contact us at DORA_OPR_Website@state.co.us if you have further questions regarding this e-mail message.

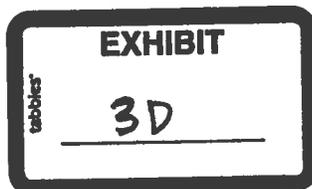


Exhibit 4



Business Center

You are here: [Home](https://www.codot.gov) / [Business Center](https://www.codot.gov) / [Business](https://www.codot.gov/business) / [Rules](https://www.codot.gov/business/rules) / [Proposed Rule Revisions and Public Hearing Dates](https://www.codot.gov/business/rules)

Proposed Rule Revisions and Public Hearing Dates

The following rules are in the process of being revised by CDOT staff and set for a public rulemaking hearing. Proposed revisions are required by statute to be available five days prior to the hearing date. Please check this site 5 days prior to hearing for the final proposed rule that will be discussed at the hearing.

Proposed Rule Revisions and Public Hearing Dates

The following rules are in the process of being revised by CDOT staff and set for a public rulemaking hearing. Proposed revisions are required by statute to be available five days prior to the hearing date. Please check this site 5 days prior to hearing for the final proposed rule that will be discussed at the hearing.

CDOT maintains a list of individuals and entities who are interested in being notified of CDOT rule making activities. If you would like to be added to this list, please email MaryFrances.Nevans@state.co.us (mailto:MaryFrances.Nevans@state.co.us)

CDOT annually publishes a proposed Departmental Regulatory Agenda pursuant to § 2-7-203(2)(a)(IV), C.R.S., which will include all new rules, amendments to existing rules or repealed rules that CDOT foresees in the upcoming year. The calendar listed for each set of rules are subject to change.

- 2013 Departmental Regulatory Agenda (<https://www.codot.gov/business/rules/documents/DepartmentalRegulatory2013Agenda.pdf>)
- 2014 Departmental Regulatory Agenda (<https://www.codot.gov/business/rules/documents/2014-departmental-regulatory-agenda>)
- 2015 Departmental Regulatory Agenda (<https://www.codot.gov/business/rules/documents/2015-departmental-regulatory-agenda>)

- CDOT does extensive public outreach at the outset of each rule-making process, involving state and local entities, and individuals in the development of the rule.

**** NOTE:** To obtain further information regarding the rules, or would like to submit comments to proposed rules, please email the person identified as the Rule Contact at least one week prior to the hearing date.

Rule Number	Rule Contact	Rule Title	Time	Date	Place
2 CCR 601-11	Marie Nakagawa (mailto:marie.nakagawa@state.co.us)	Rules Governing Practice and Procedures of the Transportation Commission of Colorado	1 p.m.	Monday, Sept. 12, 2016	CDOT HQ 4201 E. Arkansas Ave. Denver, CO 80222

Please Note

*Public Hearings Location:

unless otherwise noted
 CDOT Headquarters
 4201 E. Arkansas Ave.
 Denver, CO 80222

- Questions on Rules: Email the "Rule Contact" person listed.

State Agency Listing of Rules (<http://www.nos.state.co.us/CCRB/Welcomes.do>)

- The Department of Regulatory Agencies (DORA) provides notice of statewide rule makings by topic.

Sign up for DORA notices (http://www.dora.state.co.us/plr/real/eb121_web_signup_form)



Exhibit 5

Representative Group Stakeholders (External)

Rules Governing Practice and Procedures of the Transportation Commission of Colorado

June 9, 2016

Jim Moody	Colorado Contractors Assoc. / Director, Owner Agency Relations	jmoody@ccainfo.org
John Cater	FHWA	John.cater@dot.gov
Melinda Urban	FHWA	Melinda.urban@dot.gov
Greg Fulton	CMCA	greg@cmca.com
Grier Bailey	Colorado Wyoming Petroleum Marketers Assoc.	gbailey@cwpmma.org
Mark Radtke	CO Municipal League	mradtke@cml.org
Phillip Demosthenes	Private consultant	phil@pdemos.com
Rachel Prestidge	CRL Associates	rprestidge@crlassociates.com
Vince Rogalski	STAC Chairman	vrogal@montrose.net
Jim Souby	CDOT's Transit and Rail Advisory Committee/Colorado Rail Passenger Association	jsouby@comcast.net
Marilen Reimer	American Council of Engineering Consultants	mar@acec-co.org





STATE OF COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

1 message

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us> Thu, Jun 9, 2016 at 11:04 AM
 To: MaryFrances Nevans - CDOT <maryfrances.nevans@state.co.us>
 Cc: Marie Nakagawa - CDOT <marie.nakagawa@state.co.us>
 Bcc: Jim Moody <jmoody@ccainfo.org>, John.cater@dot.gov, "Urban, Melinda" <Melinda.urban@dot.gov>, Greg Fulton <greg@cmca.com>, Grier Bailey <gbailey@cwpm.org>, Mark Radtke <mradtke@cml.org>, phil@pdemos.com, rprestidge@crlassociates.com, vrogal@montrose.net, jsouby@comcast.net, mar@acec-co.org, MaryFrances Nevans - CDOT <maryfrances.nevans@state.co.us>, Herman Stockinger - CDOT <herman.stockinger@state.co.us>, "Alexander - CDOT, Zachary" <zach.alexander@state.co.us>

Dear Stakeholders and Colleagues:

If you are receiving this email, you have been included in CDOT's Representative Group regarding the initiation of rule-making for the Rules Governing Practice and Procedures of the Transportation Commission of Colorado (hereinafter the "Commission Rules").

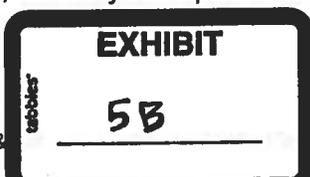
Prior to formally commencing rule-making, CDOT provides the draft rules to those stakeholders who may be impacted or have an interest in the subject of the rules. The Commission Rules govern the actions, administrative practices and transaction of business of the Transportation Commission.

We are requesting your review of the proposed changes to the Commission Rules, and welcome any comments or questions. **Please respond on or before June 23, 2016.**

The attached revisions to the existing 2014 Commission Rules contain minor cleanup provisions. The significant changes include:

- Rule 2.06 - Clarification when the term of Commission officers begins and ends.
- Rule 3.01.2 - Changing the name of the Disadvantaged Business Enterprises ("DBE") Committee to the Small Business and Diversity ("SBD").
- Rule 3.01.1, 2, 3, 4 - Changing the Commission representation on Standing Committees from four to three members.
- Rule 3.01.5 - Adding and clarifying language regarding the Efficiency and Accountability Committee based on House Bill 16-1172, and including membership on the Committee as specified in the bill, and adding a conflict of interest provision.
- Rule 8.06 – Adding new provision regarding records retention in conformance with statute.

As a member of the Representative Group, unless you request otherwise, we will continue to notify you as we proceed through the rule-making process.



We will request that the Commission open the Commission Rules on July 21, 2016, following which, we will set the rules for a public hearing. While you are welcome to attend the rule-making hearing and provide comments at that time, receiving written comments and questions in advance allows CDOT the opportunity to consider comments and make any changes necessary to the proposed rules.

We will keep you apprised of the process as we move forward. Please don't hesitate to contact me or my colleague Marie Nakagawa, copied on this email, with any questions.

Thank you for participating in the Transportation Commission's rule-making process.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations



P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org



 **Transportation Commission Rule changes in redline_6.8.16.doc**
68K

STATE OF
COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

RE: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

1 message

Greg Fulton <greg@cmca.com>

Thu, Jun 16, 2016 at 4:23 PM

To: "Nevans - CDOT, MaryFrances" <maryfrances.nevans@state.co.us>

Cc: Herman Stockinger - CDOT <herman.stockinger@state.co.us>, "Alexander - CDOT, Zachary" <zach.alexander@state.co.us>, Ronald Papsdorf - CDOT <ron.papsdorf@state.co.us>, Marie Nakagawa - CDOT <marie.nakagawa@state.co.us>, Grier Bailey <gbailey@cwprma.org>

MaryFrances and Friends,

I am not sure how Grier feels, but we would like to have a motor carrier representative be explicitly called out in the rule. Doesn't it make sense that a group who is a major user and contributes the most into the fund and the group who collects the most for the State in revenues, should be a part of a group on accountability and efficiency? I am somewhat surprised that these groups were not included originally for consideration in the legislation. The fact that we have a representative from public transportation providers, who contributes no funds to the HUTF, and the environmental community, who is more of a interested party than user and not recognizing the importance of having the motor carrier industry or petroleum marketers, reflects an unfortunate blind spot by CDOT when it comes to our industries.

I am guessing that the easiest way to address this matter may be to have a measure introduced in the upcoming session explicitly calling out the inclusion of these groups on the committee.

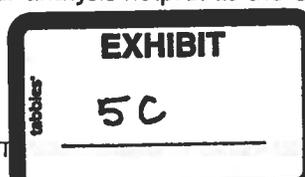
Thank you.

Greg

From: Nevans - CDOT, MaryFrances [mailto:maryfrances.nevans@state.co.us]**Sent:** Thursday, June 16, 2016 4:03 PM**To:** Greg Fulton**Cc:** Herman Stockinger - CDOT; Alexander - CDOT, Zachary; Ronald Papsdorf - CDOT; Marie Nakagawa - CDOT; Grier Bailey**Subject:** Re: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

Dear Greg,

My apologies for the late response. Thank you for taking the time to write this email. I'm copying Herman, Zach, our Commission liaison, and Ron on this email, as well as my colleague on rules, Marie. Herman and other management members as well as the Commission may find your analysis helpful as the Commission moves forward on the structuring of the Efficiency and Accountability Committee.



I'm responding from a rules perspective only; but your email will be helpful beyond what is in the TC Rules.

Your suggested addition to the rules that the CMCA and CWPMA be included as part of the E&A Committee will be shared with the Commission. In talking briefly with Herman about the recommendation, since the rules give the discretion to the Commission to name other members of the E&A Committee besides those required by statute, all members do not need to be listed in the rules. So the Department may recommend that the list of important stakeholders not be explicitly listed in the Rules. As you know, administrative rules are extremely inflexible, and even a name change of an organization would require the full 7 month process to change. That does not mean that CMCA and CWPMA will be precluded from the Committee.

Thanks again for this analysis. Marie and I will be sure you and CWPMA will be made aware of the hearing date well in advance.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations



P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org



On Fri, Jun 10, 2016 at 4:04 PM, Greg Fulton <greg@cmca.com> wrote:

Dear MaryFrances,

Good seeing you yesterday and we appreciate all you do for us.

I have just briefly glanced at these proposed rules and will get comments back to you early next week.

At first glance though in looking at the Efficiency and Accountability Committee, I think of finances. In regard to this matter there are three key groups that should be included in my eyes. One are those who pay the fees, another are those who are responsible for collecting the fees, and the third group are those who spend the money. In looking at the committee structure we have a number of representatives who spend the money while we have little representation, if any, from those who pay or collect the fees.

There are no revenues without the groups paying the fees and these are the users, who pay into the HUTF. It is interesting that we have a representative of the public transportation community (pay \$0 into the HUTF), environmental community (who pay little and hope to move us from all carbon fuels which would eliminate the fuel tax which is the greatest amount of revenue), we have the engineering and contractor community, who are paid out of the fund, and we have the local governments who reap benefits from the HUTF. OK, what is missing? It's the groups that pay into the system and those who collect the revenues to allow the system to operate. There is no HUTF funding if we don't have groups paying into it or collecting the monies.

I like to look at the users as investors in the system. In regard to our industry, we don't survive if the investors don't feel that they receive a good return on their investment as well as if there funds are being used wisely. Our industry pays 33% of all the highway user taxes and fees paid in the state which fund CDOT, so if we were a publicly traded stock, we would be viewed as the largest shareholder. Based on the committee make-up, being the largest investor appears to carry little weight or have limited value in government circles. As I note, this is foreign to those of us in the private sector. We recognize the importance and value the perspective of having those with large financial stakes in a corporation as being critical people to have at the table. Yet, there is not even one person on the committee, let alone the representation commensurate with our investment in this system. Wouldn't it behoove CDOT to have the group, paying the most, and who may be asked to pay even more in the future, to be at the table and gain their trust and support for how CDOT is conducting business? Further, doesn't it make sense to have CWPMA, whose folks collect the fuel taxes on behalf of the state as well at the table.

I do not mean to harp on you because you have truly been someone who has been supportive of our industry and I also know that the make-up of this committee was not your idea. It is though disconcerting that whoever designed this group failed to take into consideration the people, who pay the most and the group who is key in collecting and remitting the most in fees.

I would ask that you pass on to the CDOT senior staff our concerns and belief that both CMCA and CWPMA be represented on this group.

Thank you and have a great weekend.

Greg Fulton

President

Colorado Motor Carriers Association



2015 EPA SmartWay Affiliate Honoree



From: Nevans - CDOT, MaryFrances [mailto:maryfrances.nevans@state.co.us]
Sent: Thursday, June 09, 2016 11:04 AM
To: MaryFrances Nevans - CDOT
Cc: Marie Nakagawa - CDOT
Subject: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

Dear Stakeholders and Colleagues:

If you are receiving this email, you have been included in CDOT's Representative Group regarding the initiation of rule-making for the Rules Governing Practice and Procedures of the Transportation Commission of Colorado (hereinafter the "Commission Rules").

Prior to formally commencing rule-making, CDOT provides the draft rules to those stakeholders who may be impacted or have an interest in the subject of the rules. The Commission Rules govern the actions, administrative practices and transaction of business of the Transportation Commission.

We are requesting your review of the proposed changes to the Commission Rules, and welcome any comments or questions. **Please respond on or before June 23, 2016.**

The attached revisions to the existing 2014 Commission Rules contain minor cleanup provisions. The significant changes include:

- Rule 2.06 - Clarification when the term of Commission officers begins and ends.
- Rule 3.01.2 - Changing the name of the Disadvantaged Business Enterprises ("DBE") Committee to the Small Business and Diversity ("SBD").
- Rule 3.01.1, 2, 3, 4 - Changing the Commission representation on Standing Committees from four to three members.
- Rule 3.01.5 - Adding and clarifying language regarding the Efficiency and Accountability Committee based on House Bill 16-1172, and including membership on the Committee as specified in the bill, and adding a conflict of

interest provision.

- Rule 8.06 - Adding new provision regarding records retention in conformance with statute.

As a member of the Representative Group, unless you request otherwise, we will continue to notify you as we proceed through the rule-making process.

We will request that the Commission open the Commission Rules on July 21, 2016, following which, we will set the rules for a public hearing. While you are welcome to attend the rule-making hearing and provide comments at that time, receiving written comments and questions in advance allows CDOT the opportunity to consider comments and make any changes necessary to the proposed rules.

We will keep you apprised of the process as we move forward. Please don't hesitate to contact me or my colleague Marie Nakagawa, copied on this email, with any questions.

Thank you for participating in the Transportation Commission's rule-making process.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations



COLORADO
Department of Transportation
Office of Policy and Government Relations

P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org





STATE OF
COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

RE: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

1 message

Marilen Reimer <mar@acec-co.org>
To: "Nevans - CDOT, MaryFrances" <maryfrances.nevans@state.co.us>

Mon, Jun 13, 2016 at 5:11 PM

Thank you for the clarification.

Marilen Reimer, CAE | *Executive Director*

American Council of Engineering Companies (ACEC) of Colorado

800 Grant Street, Suite 100 | Denver, CO 80203-2944

Phone: 303-832-2200, ext 102 | Cell: 303-548-3946 | Fax: 303-832-0400

Email: mar@acec-co.org; Web: www.acec-co.org

Check out our latest activities, seminars, and events at www.acec-co.org.

Preparing Members for Prosperity®

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Colorado

OPT OUT: If you do not wish to receive faxes or emails from ACEC/CO, please call (303) 832-2200 or email acec@acec-co.org

From: Nevans - CDOT, MaryFrances [<mailto:maryfrances.nevans@state.co.us>]

Sent: Monday, June 13, 2016 5:09 PM

To: Marilen Reimer <mar@acec-co.org>

Subject: Re: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

Hello Marilen,

Thanks so much for sending our rules to your members. This rule-making is an update of the Transportation Commission administrative rules. It is different from legislation in that it is not enacted by the legislature, just the Transportation Commission. It does not become statute (Colorado Revised Statutes, where law is codified) it becomes administrative rules in the Colorado Register. The legislature authorizes commissions, boards and agencies to promulgate rules in certain areas, and this is one of them.

If any of your members have other questions I'm happy to answer them. My phone number is below.

Thank you again,

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations

[Redacted]

P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org

[Redacted]

On Mon, Jun 13, 2016 at 11:52 AM, Marilen Reimer <mar@acec-co.org> wrote:

Mary Frances,

I have distributed these revisions to my members for feedback. A question came back asking if this is from legislation or something that the commission does periodically. Can you answer that questions?

Thank you

Marilen Reimer, CAE | *Executive Director*

American Council of Engineering Companies (ACEC) of Colorado

800 Grant Street, Suite 100 | Denver, CO 80203-2944

Phone: 303-832-2200, ext 102 | Cell: 303-548-3946 | Fax: 303-832-0400

Email: mar@acec-co.org; Web: www.acec-co.org

Check out our latest activities, seminars, and events at www.acec-co.org.

Preparing Members for Prosperity®

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Colorado

OPT OUT: If you do not wish to receive faxes or emails from ACEC/CO, please call (303) 832-2200 or email acec@acec-co.org

Subject: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

To ACEC Colorado Transportation Committee Member:

CDOT has asked that I share this with you and request your input:

You have been included in CDOT's Representative Group regarding the initiation of rule-making for the Rules Governing Practice and Procedures of the Transportation Commission of Colorado (hereinafter the "Commission Rules").

Prior to formally commencing rule-making, CDOT provides the draft rules to those stakeholders who may be impacted or have an interest in the subject of the rules. The Commission Rules govern the actions, administrative practices and transaction of business of the Transportation Commission.

CDOT is requesting your review of the proposed changes to the Commission Rules, and welcome any comments or questions. Please respond on or before June 23, 2016.

The attached revisions to the existing 2014 Commission Rules contain minor cleanup provisions. The significant changes include:

- Rule 2.06 - Clarification when the term of Commission officers begins and ends.
- Rule 3.01.2 - Changing the name of the Disadvantaged Business Enterprises ("DBE") Committee to the Small Business and Diversity ("SBD").
- Rule 3.01.1, 2, 3, 4 - Changing the Commission representation on Standing Committees from four to three members.
- Rule 3.01.5 - Adding and clarifying language regarding the Efficiency and Accountability Committee based on House Bill 16-1172, and including membership on the Committee as specified in the bill, and adding a conflict of interest provision.
- Rule 8.06 – Adding new provision regarding records retention in conformance with statute.

As a member of the Representative Group, unless you request otherwise, we will continue to notify you as we proceed through the rule-making process.

CDOT will request that the Commission open the Commission Rules on July 21, 2016, following which, they will set the rules for a public hearing. While you are welcome to attend the rule-making hearing and provide comments at that time, receiving written comments and questions in advance allows CDOT the opportunity to consider comments and make any changes necessary to the proposed rules.

CDOT will keep you apprised of the process as we move forward. Please don't hesitate to contact Mary Frances at maryfrances.nevans@stat.co.us or Marie Nakagawa at marie.nakagawa@state.co.us with any questions.

Thank you,

Marilen Reimer, CAE

Executive Director

American Council of Engineering Companies (ACEC) of Colorado

800 Grant Street, Suite 100

Denver, CO 80203-2944

303-832-2200; Cell: 303-548-3946; Fax: 303-832-0400

email: mar@acec-co.org

www.acec-co.org

Check out our latest activities, seminars, and events at www.acec-co.org.

OPT OUT: If you do not wish to receive faxes or emails from ACEC/CO, please call (303) 832-2200.



NOTICE - This communication may contain confidential and privileged information that is for the sole use of the intended recipient. Any viewing, copying or distribution of, or reliance on this message by unintended recipients is strictly prohibited. If you have received this message in error, please notify us immediately by replying to the message and deleting it from your computer.



Re: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

1 message

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Mon, Jun 13, 2016 at 5:03 PM

To: Grier Bailey <gbailey@cwpm.org>

Cc: Greg Fulton <greg@cmca.com>, Marie Nakagawa - CDOT <marie.nakagawa@state.co.us>, Mark Larson <mlarson@cwpm.org>

Here is a revised email, so that I'm not immortalized in the rule-making file with a glaring typo in the salutation!

Dear CMCA and CWPMA,

Thank you very much for participating as representative group members and reviewing the Commission Rules. As you know, your comment will be included in the permanent rule making record. We will continue to include you in all stages of this process.

We will share this comment with Herman in his role as transportation secretary, so that he can share it with the Commission.

Thank you again,

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations



COLORADO
Department of Transportation
Office of Policy and Government Relations

P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org



On Mon, Jun 13, 2016 at 5:02 PM, Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us> wrote:

Dear CMCA and CWPMA,

Thank you very much for participating as representative group members and reviewing the Commission Rules. As you know, your comment will be included in the permanent rule making record. We will continue to include you in all stages of this process.

We will share this comment with Herman in his role as transportation secretary, so that he can share it with the Commission.

Thank you again,

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

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MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org



On Mon, Jun 13, 2016 at 12:19 PM, Grier Bailey <gbailey@cwpm.org> wrote:
I agree with the below comments.

Grier W. Bailey
Executive Director
CWPMMA
Colorado Wyoming Petroleum Marketers Association
303.422.7805 (W) 303.902.0132 (c)
gbailey@cwpm.org

—Original Message—

From: Greg Fulton [mailto:greg@cmca.com]
Sent: Monday, June 13, 2016 11:36 AM
To: Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>
Cc: Marie Nakagawa - CDOT <marie.nakagawa@state.co.us>; Mark Larson <mlarson@cwpm.org>; 'Grier W. Bailey (gbailey@cwpm.org)' <gbailey@cwpm.org>
Subject: RE: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

Mary Frances,

First, thank you again for providing us the opportunity to comment.

We have reviewed the proposed rules and have the following suggestions related to the rules concerning the new Efficiency and Accountability Committee:

- 1) Under Section 3.01.5 C related to members of the committee, we would ask that the following members be added to the committee:
6. The motor carrier industry
7. The petroleum marketers industry

As I noted these two groups are important based on their involvement with CDOT and its funding. The trucking industry pays over 1/3 of the taxes and fees that goes into the HUTF Fund and the petroleum marketers, not only are big contributors via fuel taxes and registration fees, but also are the major group for the collection of fuel taxes within the state.

Thanks
Greg

From: Nevans - CDOT, MaryFrances [mailto:maryfrances.nevans@state.co.us]
Sent: Thursday, June 09, 2016 11:04 AM
To: MaryFrances Nevans - CDOT
Cc: Marie Nakagawa - CDOT
Subject: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

Dear Stakeholders and Colleagues:

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As a member of the Representative Group, unless you request otherwise, we will continue to notify you as we proceed through the rule-making process.

We will request that the Commission open the Commission Rules on July 21, 2016, following which, we will set the rules for a public hearing. While you are welcome to attend the rule-making hearing and provide comments at that time, receiving written comments and questions in advance allows CDOT the opportunity to consider comments and make any changes necessary to the proposed rules.

We will keep you apprised of the process as we move forward. Please don't hesitate to contact me or my colleague Marie Nakagawa, copied on this email, with any questions.

Thank you for participating in the Transportation Commission's rule-making process.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations

[https://googledrive.com/host/0B8gdupL6hOgVaGJnZ1FyTjZ6bzg/images/co_cdot_off_pgr_300_rgb_email.png]

P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us<mailto:MaryFrances.Nevans@state.co.us> | www.coloradodot.info<http://www.coloradodot.info/> | www.cotrip.org<http://www.cotrip.org/>
[<https://www.codot.gov/images/global/peaks-best-dot-road-x-email-graphic>]

STATE OF
COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Re: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

1 message

Dcn. Vincent Rogalski <vrogal@montrose.net>

Thu, Jun 9, 2016 at 11:23 AM

Reply-To: vrogal@montrose.net

To: "Nevans - CDOT, MaryFrances" <maryfrances.nevans@state.co.us>

Mary Frances:

The rule changes seem appropriate.

Vince Rogalski

Chairman STAC

--- maryfrances.nevans@state.co.us wrote:

From: "Nevans - CDOT, MaryFrances" <maryfrances.nevans@state.co.us>

To: MaryFrances Nevans - CDOT <maryfrances.nevans@state.co.us>

Cc: Marie Nakagawa - CDOT <marie.nakagawa@state.co.us>

Subject: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

Date: Thu, 9 Jun 2016 11:04:20 -0600

Dear Stakeholders and Colleagues:

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We will keep you apprised of the process as we move forward. Please don't hesitate to contact me or my colleague Marie Nakagawa, copied on this email, with any questions.

Thank you for participating in the Transportation Commission's rule-making process.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations



P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org



--001a114fef8ac6afab0534db69e7--

STATE OF
COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

RE: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

1 message

Phil Demosthenes <pdemos@ecentral.com>
Reply-To: pdemos@ecentral.com
To: "Nevans - CDOT, MaryFrances" <maryfrances.nevans@state.co.us>

Thu, Jun 9, 2016 at 11:13 AM

No comments on the proposed rule changes.

Phil Demosthenes - 303-349-9497 (mobile)

phil@pdemos.com

From: Nevans - CDOT, MaryFrances [mailto:maryfrances.nevans@state.co.us]
Sent: Thursday, June 09, 2016 11:04 AM
To: MaryFrances Nevans - CDOT
Cc: Marie Nakagawa - CDOT
Subject: Input requested on revisions to Transportation Commission Rules: Please reply by June 23rd

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Thank you for participating in the Transportation Commission's rule-making process.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations



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MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org





STATE OF COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Notice of rule-making hearing on Sept. 12 for Transportation Commission Rules

1 message

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Mon, Aug 1, 2016 at 12:05 PM

To: MaryFrances Nevans - CDOT <maryfrances.nevans@state.co.us>

Bcc: Arnold@crashlogistics.com, Terrance Bresina <Tbresina@aimntls.com>, Sgrimes@afwonline.com, Brian Winn <Bwinn@afwonline.com>, Ronnie.martel@us.belfor.com, desiree.ortiz@btconstruction.com, mpadilla@casttrans.com, Rick@cdlco.com, Barry@cdlco.com, Brenda Lenz <blenz@customsvcs.com>, ellenbergs@bouldercolorado.gov, Ludwigs@bouldercolorado.gov, jjohnson@fcgov.com, robind@ci.loveland.co.us, browng@ci.loveland.co.us, estocl@ci.loveland.co.us, Patti Gillette <Patti@cmca.com>, Greg Fulton <greg@cmca.com>, tompeterson@co-asphalt.com, tmilo@ccainfo.org, Eric Bergman <ebergman@ccionline.org>, ncolglazier@colofb.com, Mark Radtke <mradtke@cml.org>, todd@coloradocaa.org, Ra Minardi <Rjminardi@msn.com>, Adrian.Driscoll@cdps.state.co.us, Jerry.Williams@cdps.state.co.us, rstewartcc@msn.com, ReKx@completeproduction.com, Jason Fixsel <Jason_fixsel@concentra.com>, srivera@denneytransport.com, Diane@diamondexcavating.com, rodder@ecocycle.org, Colleen Laeger <claeger@frontieradjusters.com>, rphillips@frontieradjusters.com, bill.smith@furnitureerow.com, don.wilson@furnitureerow.com, clagilco@yahoo.com, s.gillette@gwccnet.com, c.mann@gwccnet.com, hhwtruck@yahoo.com, dgraves@hemphillspeedy.com, ITLHenderson@itltanklines.com, randy.kopeccky@jbssa.com, Kkos@jeffco.us, Pete Lipson <plipson@gjlco.com>, rstevens@renewablefiber.com, Debbie Curtis - Heupel <CSI7774@aol.com>, Colin Heupel <dcwheupel@msn.com>, cbrenzikofer@mhff.net, Moementum@msn.com, Randall Nelson <melson@offenpet.com>, Dean Teter <dteter@offenpet.com>, Jtietz@petersonconcrete.com, phil@pdemos.com, Carl Spaulding <cspaulding@renewablefiber.com>, jeffc@duffy crane.com, tawny@coloradohome.org, Zach Larson <z.larson@srs-llc.net>, bababcock@sageschools.com, bruce_Lawrence@shamrockfoods.com, sxc@solartransport.com, dball@scranet.org, sheri@strailylaw.com, natalie.rose@truevalue.com, Rick.Reisenbigler@truevalue.com, jtripp@uswelding.com, jandreatta@wagnerequipment.com, Brunn_Kelly@wagnerequipment.com, Jacoby_Dave@wagnerequipment.com, steven.scannell@wal-mart.com, Mark Respass <MarkRespass@wdtc.net>, RJ@lobbyco.com, David Gutierrez <Kneehi25@hotmail.com>, scott@wodeksys.com, Kristin Westman <KristinWestman@apollo-propane.com>, Jim Moody <jmoody@ccainfo.org>, Kirstie Nixon - CDPS <kirstie.nixon@state.co.us>, Rick Archer - CDPS <rick.archer@state.co.us>, John.cater@dot.gov, "Urban, Melinda" <Melinda.urban@dot.gov>, Grier Bailey <gbailey@cwpmma.org>, rprestidge@crlassociates.com, vrogal@montrose.net, jsouby@comcast.net, Marilen Reimer <mar@acec-co.org>, dcriswell@cml.org, Herman Stockinger - CDOT <herman.stockinger@state.co.us>, Marie Nakagawa <marie.nakagawa@state.co.us>, Olivia Martinez <olivia.martinez@state.co.us>

Dear Stakeholders and Colleagues:

If you are receiving this email, you have been identified as an interested party regarding the Rules Governing Practice and Procedures of the Transportation Commission of Colorado (hereinafter the "Commission Rules"). The attached red-line draft contains comments submitted to date. Also attached is the clean version approved by the Commission on July 21, which have been filed with the Colorado Secretary of State and the Department of Regulatory Agencies to commence the rule-making process.

A rule-making hearing will be held on these rules on **September 12, 2016 at 1 p.m. at the CDOT Headquarters auditorium, located at 4201 E. Arkansas Avenue, Denver, CO 80222**. When you arrive at the front desk, please ask the front desk to contact Olivia Martinez to escort you to the hearing room.

While you are welcome to attend the rule-making hearing and provide comments at that time, receiving written comments and questions in advance allows CDOT the opportunity to consider comments and make any changes necessary to the proposed rules. **Please email any further comments prior to August 15th.**

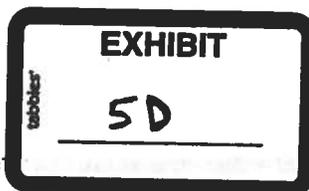
Please don't hesitate to contact me or my colleague Marie Nakagawa, copied on this email, with any questions.

Thank you for participating in the Transportation Commission's rule-making process.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator



Office of Policy & Government Relations



COLORADO
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2 attachments

 **2CCR60111redline.pdf**
165K

 **2CCR60111clean.interested parties.8.1.16.pdf**
164K

DEPARTMENT OF TRANSPORTATION

Transportation Commission

Rules Governing Practice and Procedures of the Transportation Commission of Colorado

2 CCR 601-11

Statement of Basis, Purpose, and Statutory Authority

The purpose of these rules is to set forth provisions governing the Transportation Commission's actions, administrative practices, and transaction of business. In 2014, the rules ~~are being~~were updated to make one substantive change to rule 2.06 (changing the annual election of officers from the August regular meeting to July) and to otherwise make numbering and other non-substantive changes. In 2016, the rules were updated to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions. The authority under which the Transportation Commission of Colorado shall establish these rules is set forth in § 43-1-106(6) and § 43-1-106(8)(k), C.R.S.

1.00 Definitions

- 1.01 "Ad Hoc Committee" shall mean a committee created by the Commission for the purpose of addressing a specific need of a non-continuous nature.
- 1.02 "Bridge Enterprise Board of Directors" shall mean a type 1 board as defined in § 24-1-105, C.R.S., and shall be comprised of the members of the Transportation Commission of Colorado pursuant to § 43-4-805(2) C.R.S.
- 1.03 "Commission" shall mean the Transportation Commission of Colorado.
- 1.04 "Department" shall mean the Colorado Department of Transportation.
- 1.05 "Executive Director" shall mean the Executive Director of the Colorado Department of Transportation.
- 1.06 "Headquarters" shall mean 4201 East Arkansas Avenue, Denver, Colorado 80222the Colorado Department of Transportation's headquarters building, the address for which is provided on the Colorado Department of Transportation's website.
- 1.07 "HPTE Board" shall mean the Board of Directors of the High Performance Transportation Enterprise pursuant to § 43-4-806(2)(a), C.R.S., which shall be a type 1 board as defined in § 24-1-105, C.R.S., and shall include three members of the Transportation Commission appointed by resolution of the Commission.
- 1.08 "Meeting" shall mean any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication pursuant to § 24-6-402(1)(b), C.R.S.
- 1.09 "Secretary" shall mean the Secretary of the Transportation Commission of Colorado.

1.10 "Standing Committee" shall mean a committee created by the Commission to address a general need of a continuous nature.

1.11 "State" shall mean the State of Colorado.

2.00 Commission Members – Elections – Appointments - Successions

2.01 The Commission consists of eleven members, appointed by the Governor with the consent of the Senate for terms of four years. Each Commissioner shall reside in the district the Commissioner represents.

2.02 All members of the Commission shall take an oath of office prescribed by the constitution of the state for state officers and the oath shall be filed by the Secretary in the Office of the Secretary of State.

2.0.3 The members of the Commission and their successors shall constitute a body corporate to be known as the "Transportation Commission of Colorado"; shall have the power to adopt and use a common seal and to change and alter such seal at will; and shall have and exercise all powers necessarily incident to a body corporate.

2.04 All members of the Commission shall also serve as members of the Bridge Enterprise Board of Directors.

2.05 Three members of the Commission shall be appointed by Commission ratifying resolution to serve on the Board of Directors of the High Performance Transportation Enterprise.

2.06 Annual election of officers shall be the first-last order of business at the Commission's regular July-June meeting. The elected officers' terms shall begin on July 1, and expire on June 30 of the following year.

2.07 The Commission shall elect a Chairman, Vice Chairman and Secretary to serve for one year or until successors are elected.

2.08 The Chairman shall preside at all regular meetings of the Commission. The Chairman shall be a member of the Commission.

2.09 The Vice Chairman, in the absence or disability of the Chairman shall perform the duties of the Chairman. The Vice Chairman shall be a member of the Commission.

2.10 In the absence or disability of the Chairman or Vice Chairman, the Commission shall elect from its members present a Chairman pro tempore who shall perform the duties of the Chairman for that meeting.

2.11 The Secretary shall assist the Chairman in conducting the meetings of the Commission and shall keep the books and records of the Commission. The Secretary shall be a member of the Department staff.

3.00 Committees of the Commission

3.01 The Commission may create Standing Committees by full consent of the Commission as it deems necessary. As part of the annual election of officers, mMembers shall be appointed by the Chairman, with the consent of the full Commission, to all existing Standing Committees. mMembers so appointed shall begin serving by the July regular meeting on the respective Committees and serve for one year or until their successors are appointed. The Commission shall

ratify the appointments of members to Standing Committees by resolution. The Commission has created the following Standing Committees:

- 3.01.1 The Audit Review Committee ("ARC"), which shall be comprised of at least three but no more than five members of the Commission who shall meet periodically with executive management and the Audit Director to review audits, reports and activities of the internal Audit Division. ~~Any Commissioner may refer an audit or a report to the full Commission for consideration.~~
- 3.01.2 The Small Business and Diversity ("SBD") Disadvantaged Business Enterprises ("DBE") Committee, which shall be comprised of at least ~~four~~three but no more than five members of the Commission who shall meet periodically with executive management and the ~~DBE Director of the Civil Rights and Business Resource Center program administrator~~ to review the ~~DBE civil rights and small business~~ programs.
- 3.01.3 The Safety Committee, which shall be comprised of at least ~~four~~three but no more than five members of the Commission who shall meet periodically with executive management to review the safety program.
- 3.01.4 The Transit and Intermodal Committee ("T&I Committee"), which shall be comprised of at least ~~four~~three but no more than five members of the Commission who shall meet periodically with executive management and the Division of Transit and Rail Director to review transit and rail policies and practices.
- 3.01.5 The Efficiency and Accountability Committee, which is reestablished pursuant to § 43-1-106(17)(a), C.R.S., ~~which~~ shall seek ways to maximize the efficiency and accountability of the Department and the Transportation Commission to allow increased investment in the transportation system over the short, medium, and long term, in compliance with § 43-1-106(17)(a), C.R.S.
 - A. Membership shall include, from the Executive Branch of the state government:
 1. One member of the Commission designated by the Commission;
 2. One member of the Office of the Executive Director designated by the Executive Director;
 3. One member from each of the divisions of the Department created in ~~section~~§ 43-1-104(1) C.R.S., designated by the Executive Director after consultation with the directors of each division; and
 4. Any other employees of the Department the Executive Director may designate.
 - B. Membership shall include, from the Legislative Branch of the state government:
 1. Two members of the House of Representatives, one appointed from the majority party by the speaker of the House of Representatives and one appointed from the minority party by the minority leader of the House of Representatives, pursuant to § 43-1-106(17); and
 2. Two members of the Senate, one appointed from the majority party by the president of the Senate and one appointed from the minority party by the senate minority leader, pursuant to § 43-1-106(17).

B.C. Membership shall include, from outside state government, representatives of:

1. The construction Industry;
2. The engineering industry;
3. The environmental community;
4. Transportation planning organizations;
5. Public transportation providers; ~~and~~
6. Counties;
7. Municipalities;
8. Nonpartisan good governance organizations;
9. Any other industries or groups that the Commission determines should be represented on the committee; and-
10. Any individuals or representatives of informally constituted groups of individuals that the Commission determines should be represented on the Committee.

DC. The Efficiency and Accountability Committee shall periodically report to the Commission and the Executive Director regarding means by which the Commission and the Department may execute their duties more efficiently. The Executive Director or the Director's designee shall report at least once per calendar year to either the committees of the House of Representatives and the Senate that have jurisdiction over transportation or the Transportation Legislation Review Committee regarding their activities and recommendations and any actions taken by the Commission or Department to implement recommendations of the committee.

E. A member of the Efficiency and Accountability Committee who has a personal or private interest that could reasonably be expected to be affected if the Commission or the Department implements a proposed Committee recommendation shall disclose the interest to the Committee and shall abstain from any Committee vote to adopt or reject the recommendation.

3.02 The Chairman, with the consent of a majority of the Commission members, may appoint Ad Hoc Committees as deemed necessary to provide for the efficient conduct of the Commission's business; such committees shall serve at the pleasure of the Chairman.

4.00 Commission Attendance and Notice to Commission of Scheduled Meetings

4.01 Each Commissioner is encouraged to attend the following:

4.01.1 All meetings and hearings of the Commission.

4.01.2 All meetings or gatherings of private groups or associations at which Commission representation is requested.

4.01.3 All organized official field trips of the Commission.

- 4.01.4 All meetings of the Department and private companies, groups or governmental entities which the Commissioner attends at the request of the Chairman or the Executive Director.
 - 4.01.5 All Commission meetings with Legislators, the Joint Budget Committee, the House Transportation and Energy Committee, and the Senate Transportation Committee.
 - 4.01.6 All meetings of any standing or Ad Hoc Committee to which a Commissioner is appointed.
 - 4.01.7 All meetings a Commissioner is assigned to attend as a representative of the Commission.
- 4.02 All absences of Commissioners at a meeting or hearing of the Commission shall be noted by the Secretary in the minutes of any meeting or hearing of the Commission. Commissioners are encouraged to notify the Secretary or Chairman in advance of any meeting or hearing if they will be unable to attend or if they will be absent from a portion of the meeting or hearing.
 - 4.03 If a Commissioner does not answer roll call at the beginning of the meeting, that Commissioner shall be deemed absent unless excused by the Chairman or his or her subsequent arrival is noted in the minutes.
 - 4.04 Except under special or emergency circumstances, the Secretary will provide to the Commission copies of material pertaining to items that require action within seven days of the meeting.
 - 4.05 Special meetings may be called by the Governor, the Executive Director, the Chairman or a majority of the members of the Commission. The Secretary shall provide notice of any special meeting to the Commission by mail or electronic mail no less than three days prior to the date of any special meeting. However, in case of emergency, a 24-hour notice shall be given by telephone or electronic mail. See § 43-1-106(6) C.R.S.
- 5.00 Schedule of Meetings – Meeting Location**
- 5.01 Except as provided in this section, regular meetings of the Commission shall be held on the third Thursday of each month and no less than eight times a year.
 - 5.02 A schedule of regular meetings of the Commission shall be established and adopted each December-July for the upcoming such fiscal year. ~~By Commission action any such scheduled meeting may be canceled or rescheduled.~~
 - 5.03 The Chairman of the Commission may propose postponement or advancement of the time and date of any regular meeting for Commission action and the Chairman may remove items from the agenda or rearrange the order of the agenda items.
 - 5.04 The Commission meetings shall be held at Headquarters or at other locations throughout the state. The Commission will consider holding one-third-at least two of its meetings per 12-month period outside the Denver area to enable persons throughout the state to attend its meetings and express their opinions to the Commission.
- 6.00 Public Notice of Meetings**
- 6.01 Public Notice of Commission meetings will be given as provided for in the Colorado Sunshine Act of 1972 (§ 24-6-401, *et seq.* C.R.S.).

- 6.02 All meetings of two or more members of the Commission at which public business is discussed or at which any formal action may be taken are declared to be public meetings and shall be open to the public at all times, excluding the convening of an executive session pursuant to Rule 7.098. See 24-6-402(2)(a), C.R.S.
- 6.03 Any meetings at which the adoption of any proposed policy, position resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the Commission is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. See § 24-6-402(2)(c), C.R.S.
- 6.04 The Commission shall be deemed to have given full and timely notice if the notice of the meeting is posted in the lobby of CDOT Headquarters and on CDOT's website, no less than twenty-four hours prior to the holding of the meeting.
- 6.05 In addition to the provisions of 6.04 of this rule, public notice of the regular meeting date and proposed agenda shall be posted by the Secretary in the lobby of the Headquarters and on CDOT's website at least five days prior to the meeting, or as soon as practicable.
- 7.00 Conduct of Meetings – Matters Coming Before the Commission**
- 7.01 In any lawsuit or proceedings, all meetings of the Commission shall be presumed to have been duly called and regularly held.
- 7.02 Except for matters to be considered by the Commission in Executive Session pursuant to § 24-6-402(3)(a) or § 24-6-402(3)(b), C.R.S., all meetings of the Commission shall be open to the public and shall be conducted by the Chairman generally under Robert's Rules of Order, but may proceed on an informal basis.
- 7.03 A quorum of the Commission shall be six members. If a quorum of the Commission is present, a majority vote of the members present shall be required to carry any motion, order, regulation or other action of the Commission.
- 7.04 All formal action of the Commission shall be by resolution adopted at a regular or special meeting of the Commission as required by statute.
- 7.05 All resolutions originated by Department staff which require a legal determination must be approved as to legality and form by the Office of the Attorney General or its designee before being accepted as an action item on a Commission meeting agenda.
- 7.06 Persons or groups wishing to make a presentation at a Commission meeting or hearing may make a request to be placed on the agenda by contacting the Secretary in writing at CDOT Headquarters 4201 East Arkansas Avenue, Room 270, Denver, Colorado 80222 at least 17 days prior to the meeting. The public is encouraged to participate at these meetings.
- 7.07 The Secretary will furnish sign-in sheets for public comment at all meetings of the Commission. They will be available at the door of the meeting room.
- 7.087 Items which are not included or identified as action items in the public notice of the Commission meeting agenda may, nonetheless, be considered by the Commission for action at the noticed meeting on an emergency basis, provided that the items must be approved for action by either the Chairman or a majority of the Commissioners and that the Secretary must post public notice of such additional action items in accordance with the provisions of Section 6.00 of this rule.
- 7.098 Upon the announcement by the Commission to the public of the topic for discussion and after providing as much detail as possible without compromising the purpose for which the executive

session is authorized, and by the affirmative vote of two-thirds of its members, the Commission may hold an Executive Session at a regular or special meeting for the sole purpose of considering any of the matters described in § 24-6-402(3)(a) or § 24-6-402(3)(b), C.R.S.. No adoption of any proposed policy, position, resolution, rule, regulations, or formal action, except the review, approval, and amendment of the minutes of an executive session shall occur at any executive session that is not open to the public.

8.00 Records - Minutes

- 8.01 All meetings of the Commission shall be electronically recorded. ~~The audio files shall be kept permanently by the Secretary.~~
- 8.02 The Secretary shall make and maintain minutes of all Commission meetings. Minutes shall be written in the order in which the issues were considered at the meeting, shall be prepared promptly, and shall be open to public inspection. Minutes of each meeting shall state, by name, the Commissioners that are either present or absent and all Department executive management that are present.
- 8.03 Minutes shall include all matters considered and action taken, if any, but need not be a verbatim transcript. The minutes shall reflect the number of yea and nay votes on each action item and shall state by name the Commissioners voting yea or nay, if there is a division of the vote.
- 8.04 Minutes of any meeting shall be approved, rejected or modified at the next regular meeting. After approval or modification, minutes shall be signed by the Secretary and made a part of the Commission's records. A copy of the signed minutes of any Commission meeting shall be available to the public upon request.
- 8.05 The minutes and records of the Commission, books of account, and the seal of the Commission shall be kept in the office of the Secretary and shall be open to public inspection.
- ~~8.06 The Secretary will furnish sign in sheets for all meetings of the Commission. They will be available at the door of the meeting room.~~
- 8.06 The Commission shall retain records in keeping with the requirements of § 24-80-101, et seq., C.R.S.; however, with regard to the electronic recording of executive sessions, the records shall be kept for ninety days pursuant to § 24-6-402(2)(d.5)(I)(E), C.R.S. The audio files shall be kept permanently by the Secretary.

9.00 Compensation – Reimbursement of Expenditures

- 9.01 Pursuant to § 43-1-106 (6), C.R.S., each member of the Commission shall receive seventy-five dollars per day for each regular or special meeting of the Commission actually attended and shall be reimbursed for his or her necessary expenses incurred in the discharge of such member's official duties and in accordance with Fiscal Rules and Commission policy.
- 9.02 Mileage rates for necessary travel shall be computed in accordance with § 24-9-104, C.R.S., as amended.

10.00 Standards of Conduct – Conflicts of Interest – Disclosure

- 10.01 A conflict of interest occurs whenever a Commissioner has privileged information or a financial interest which may influence or be reasonably perceived by the public as influencing the conduct of the Commissioner.

10.02 A Commissioner holds a position of public trust and has a fiduciary duty to carry out his or her duties for the benefit of the people of the state in a manner consistent with the applicable standards of conduct of § 24-18-101 through § 24-18-206, C.R.S. Each Commissioner shall comply with such standards, as follows:

10.02.1 A Commissioner shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which he has a direct or substantial financial interest.

10.02.2 "Financial interest" means a substantial interest held by an individual which is:

- (1) An ownership interest in a business;
- (2) A creditor interest in an insolvent business;
- (3) An employment or a prospective employment for which negotiations have begun;
- (4) An ownership interest in real or personal property;
- (5) A loan or any other debtor interest; or
- (6) A directorship or officership in a business.

10.03 However, a Commissioner may, prior to acting in a manner described above which may impinge on his or her fiduciary duty and the public trust, disclose the nature of his or her private interest in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his or her services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his or her interest. If he or she then performs the official act involved, he or she shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

11.00 Adoption of Rules and Regulations

11.01 All rulemaking proceedings authorized by law to be conducted by the Commission, or by a designee on behalf of the Commission, shall be conducted in accordance with the State Administrative Procedure Act ("APA"), § 24-4-101 *et seq.*, C.R.S.–

12.00 Commission Adjudicatory Hearings

12.01 Adjudicatory hearings may be conducted by the Commission on any issues within the Commission's jurisdiction or the hearing may be delegated by the Commission either to an Administrative Law Judge, in the Division of Administrative Hearings, Department of Administration, or to the Department of Transportation's Executive Director to act as the Hearing Officer. Hearings shall be conducted in accordance with the State Administrative Procedure Act ("APA") § 24-4-101, *et seq.* C.R.S., unless the Commission's or the Department of Transportation's enabling legislation provides otherwise.

12.02 In cases where the Department conducts adjudicatory hearings, either through the Executive Director or his designee, which may be but shall not be limited to the Chief Engineer or an Administrative Law Judge. The Executive Director, or his or her designee, shall file a written report with the Commission for review setting forth the evidence and the findings and the application of the findings to statutes and rules. Upon review, the Commission may then sustain findings or make new findings based upon the record.



STATE OF COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Fwd: Notice of rule-making hearing on Sept. 12 for Transportation Commission Rules

1 message

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

Tue, Aug 30, 2016 at 11:00 AM

To: MaryFrances Nevans - CDOT <maryfrances.nevans@state.co.us>

Bcc: Arnold@crashlogistics.com, Terrance Bresina <Tbresina@aimntls.com>, Sgrimes@afwonline.com, Brian Winn <Bwinn@afwonline.com>, Ronnie.martel@us.belfor.com, desiree.ortiz@btconstruction.com, mpadilla@casttrans.com, Rick@cdlco.com, Barry@cdlco.com, Brenda Lenz <blenz@customsvcs.com>, ellenbergs@bouldercolorado.gov, Ludwigs@bouldercolorado.gov, jjohnson@fcgov.com, robind@ci.loveland.co.us, browng@ci.loveland.co.us, estocl@ci.loveland.co.us, Patti Gillette <Patti@cmca.com>, Greg Fulton <greg@cmca.com>, tompeterson@co-asphalt.com, tmilo@ccainfo.org, Eric Bergman <ebergman@ccionline.org>, Mark Radtke <mradtke@cml.org>, todd@coloradocaa.org, Ra Minardi <Rjminardi@msn.com>, ReKx@completeproduction.com, Jason Fixsel <Jason_fixsel@concentra.com>, sriviera@denneytransport.com, Diane@diamondexcavating.com, rodger@ecocycle.org, Colleen Laeger <claeger@frontieradjusters.com>, rphillips@frontieradjusters.com, bill.smith@furnitureerow.com, don.wilson@furnitureerow.com, clagilco@yahoo.com, c.mann@gwccnet.com, hhwtruck@yahoo.com, dgraves@hemphillsspeedy.com, ITHenderson@itltanklines.com, randy.kopecky@jbssa.com, Kkos@jeffco.us, Pete Lipson <plipson@gjloco.com>, rstevens@renewablefiber.com, Debbie Curtis - Heupel <CSI7774@aol.com>, Colin Heupel <dcwheupel@msn.com>, cbrenzikofer@mhff.net, Moementum@msn.com, Randall Nelson <nelson@offenpet.com>, Dean Teter <dteter@offenpet.com>, Jtietz@petersonconcrete.com, phil@pdemos.com, Carl Spaulding <cspaulding@renewablefiber.com>, jeffc@duffy crane.com, tawny@coloradohome.org, Zach Larson <z.larson@srs-llc.net>, bruce_Lawrence@shamrockfoods.com, sxc@solartransport.com, dball@scranet.org, natalie.rose@truevalue.com, Rick.Reisenbiger@truevalue.com, jandreatta@wagnerequipment.com, Jacoby_Dave@wagnerequipment.com, steven.scannell@wal-mart.com, RJ@lobbyco.com, David Gutierrez <Kneehi25@hotmail.com>, scott@wodeksys.com, Jim Moody <jmoody@ccainfo.org>, Kirstie Nixon - CDPS <kirstie.nixon@state.co.us>, Herman Stockinger - CDOT <herman.stockinger@state.co.us>, Marie Nakagawa <marie.nakagawa@state.co.us>, "Alexander - CDOT, Zachary" <zach.alexander@state.co.us>, MaryFrances Nevans - CDOT <maryfrances.nevans@state.co.us>

Dear Colleagues and Stakeholders:

This email provides an updated draft of the Transportation Rules, which will be the draft provided to the Administrative Hearing Officer at the September 12th, 2016 hearing at CDOT. Since our email below, we have made several changes based on comments that have come in during the review period. The changes include:

- Rule 3.01.2 Eliminating the Safety Committee (rationale: the committee no longer exists; it is not required by statute)
- Rule 3.01.5 changed to Rule 3.02
- 12.01 Added reference to Section 24-4-105(11) referring to petitions for Declaratory Orders
- Other minor non-substantive formatting changes

Please let us know if you have any questions or comments on these revisions.

Thank you,

Mary Frances

Mary Frances Nevans

Rules, Policies and Records Administrator

Office of Policy & Government Relations



COLORADO Department of Transportation Office of Policy and Government Relations

P 303.757.9723 |

Colorado Department of Transportation



4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | http://www.codot.gov



----- Forwarded message -----

From: **Nevans - CDOT, MaryFrances** <maryfrances.nevans@state.co.us>
Date: Mon, Aug 1, 2016 at 12:05 PM
Subject: Notice of rule-making hearing on Sept. 12 for Transportation Commission Rules
To: MaryFrances Nevans - CDOT <maryfrances.nevans@state.co.us>

Dear Stakeholders and Colleagues:

If you are receiving this email, you have been identified as an interested party regarding the Rules Governing Practice and Procedures of the Transportation Commission of Colorado (hereinafter the "Commission Rules"). The attached red-line draft contains comments submitted to date. Also attached is the clean version approved by the Commission on July 21, which have been filed with the Colorado Secretary of State and the Department of Regulatory Agencies to commence the rule-making process.

A rule-making hearing will be held on these rules on **September 12, 2016 at 1 p.m. at the CDOT Headquarters auditorium, located at 4201 E. Arkansas Avenue, Denver, CO 80222**. When you arrive at the front desk, please ask the front desk to contact Olivia Martinez to escort you to the hearing room.

While you are welcome to attend the rule-making hearing and provide comments at that time, receiving written comments and questions in advance allows CDOT the opportunity to consider comments and make any changes necessary to the proposed rules. **Please email any further comments prior to August 15th.**

Please don't hesitate to contact me or my colleague Marie Nakagawa, copied on this email, with any questions.

Thank you for participating in the Transportation Commission's rule-making process.

Mary Frances

Mary Frances Nevans

Rules, Policies and Procedures Administrator

Office of Policy & Government Relations



P 303.757.9723 |

Colorado Department of Transportation

4201 E Arkansas Ave, Room 275, Denver 80222

MaryFrances.Nevans@state.co.us | www.coloradodot.info | www.cotrip.org





2CCR60111subsequent revisions.8.23.16_mn.rtf

135K



STATE OF
COLORADO

Nevans - CDOT, MaryFrances <maryfrances.nevans@state.co.us>

RE: Notice of rule-making hearing on Sept. 12 for Transportation Commission Rules

1 message

Phil Demosthenes <pdemos@ecentral.com>

Tue, Aug 30, 2016 at 11:54 AM

Reply-To: pdemos@ecentral.com

To: "Nevans - CDOT, MaryFrances" <maryfrances.nevans@state.co.us>

no comments from me on this one.

Phil Demosthenes - 303-349-9497 (mobile)

phil@pdemos.com

From: Nevans - CDOT, MaryFrances [mailto:maryfrances.nevans@state.co.us]

Sent: Tuesday, August 30, 2016 11:00 AM

To: MaryFrances Nevans - CDOT

Subject: Fwd: Notice of rule-making hearing on Sept. 12 for Transportation Commission Rules

Dear Colleagues and Stakeholders:

This email provides an updated draft of the Transportation Rules, which will be the draft provided to the Administrative Hearing Officer at the September 12th, 2016 hearing at CDOT. Since our email below, we have made several changes based on comments that have come in during the review period. The changes include:

- Rule 3.01.2 Eliminating the Safety Committee (rationale: the committee no longer exists; it is not required by statute)
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- Other minor non-substantive formatting changes

Please let us know if you have any questions or comments on these revisions.

Thank you,

Mary Frances

Mary Frances Nevans

Rules, Policies and Records Administrator

Office of Policy & Government Relations

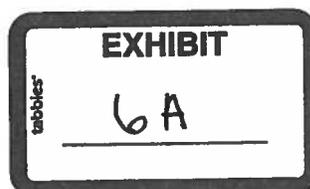
Exhibit 6

2 CCR 601-11

Rules Governing Practice and Procedures of the Transportation Commission of Colorado

Statement of Basis, Purpose, and Statutory Authority

The purpose of these rules is to set forth provisions governing the Transportation Commission's actions, administrative practices, and transaction of business. In 2014, the rules were updated to make one substantive change to rule 2.06 (changing the annual election of officers from the August regular meeting to July) and to otherwise make numbering and other non-substantive changes. In 2016, the rules were updated to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions. The authority under which the Transportation Commission of Colorado shall establish these rules is set forth in § 43-1-106(6) and § 43-1-106(8)(k), C.R.S.





COLORADO

Department of Transportation

Office of Policy and Government Relations

4201 East Arkansas Avenue, Room 275
Denver, CO 80222-3406

DATE: September 12, 2016

TO: CDOT Central Files/Office of Policy and Government Relations

FROM: Mary Frances Nevans, Rules Administrator

**SUBJECT: Permanent Records Retention of Rule File for 2016
promulgation of rules regarding 2 CCR 601-11: "Rules
Governing Practice and Procedures of the Transportation
Commission of Colorado"**

Please establish an official rule making file for the Rule Making Process and Hearing pursuant to § 24-4-103(8.1)(a) C.R.S. which requires that "[a]n agency shall maintain an official rule-making record for each proposed rule for which a notice of proposed rule-making has been published in the Colorado register. Such rule-making record shall be maintained by the agency until all administrative and judicial review procedures have been completed pursuant to the provisions of this article. The rule-making record shall be available for public inspection."

For retention purposes, this file should be considered permanent.

Please contact me if you need additional information.

Mary Frances Nevans
(w) (303) 757-9723
MaryFrances.Nevans@state.co.us





COLORADO
Department of
Transportation

A **Notice of Public Rule Making Hearing** is hereby
provided pursuant to
§ 24-4-103(2) and (4)(a) C.R.S.

**The Rules Governing Practice and Procedures of the
Transportation Commission of Colorado**

2 CCR 601-11

September 12, 2016
1:00 p.m.
CDOT Headquarters Building
4201 E. Arkansas Avenue
Denver, CO 80222
Auditorium

If you need special accommodation, please contact Mary Frances Nevans, (303) 757-9723 at least one week prior to the hearing. A complete rule making file is available for inspection in the Office of Policy and Government Relations, Room 275.



Exhibit 7

DEPARTMENT OF TRANSPORTATION

Transportation Commission

Rules Governing Practice and Procedures of the Transportation Commission of Colorado

2 CCR 601-11

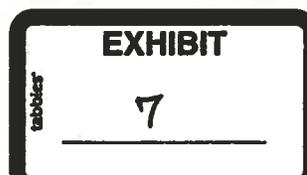
Subsequent revisions 8.23.16

Statement of Basis, Purpose, and Statutory Authority

The purpose of these rules is to set forth provisions governing the Transportation Commission's actions, administrative practices, and transaction of business. In 2014, the rules were updated to make one substantive change to rule 2.06 (changing the annual election of officers from the August regular meeting to July) and to otherwise make numbering and other non-substantive changes. In 2016, the rules were updated to change the name of the Disadvantaged Business Enterprises ("DBE") Committee to Small Business and Diversity ("SBD") Committee, to clarify the timeline of the election of Commission officers, to clarify the role and expand the membership of the Efficiency and Accountability Committee pursuant to House Bill 16-1172, and to make other minor clarifying revisions. The authority under which the Transportation Commission of Colorado shall establish these rules is set forth in § 43-1-106(6) and § 43-1-106(8)(k), C.R.S.

1.00 Definitions

- 1.01 "Ad Hoc Committee" shall mean a committee created by the Commission for the purpose of addressing a specific need of a non-continuous nature.
- 1.02 "Bridge Enterprise Board of Directors" shall mean a type 1 board as defined in § 24-1-105, C.R.S., and shall be comprised of the members of the Transportation Commission of Colorado pursuant to § 43-4-805(2) C.R.S.
- 1.03 "Commission" shall mean the Transportation Commission of Colorado.
- 1.04 "Department" shall mean the Colorado Department of Transportation.
- 1.05 "Executive Director" shall mean the Executive Director of the Colorado Department of Transportation.
- 1.06 "Headquarters" shall mean the Colorado Department of Transportation's headquarters building, the address for which is provided on the Colorado Department of Transportation's website.
- 1.07 "HPTE Board" shall mean the Board of Directors of the High Performance Transportation Enterprise pursuant to § 43-4-806(2)(a), C.R.S., which shall be a type 1 board as defined in § 24-1-105, C.R.S., and shall include three members of the Transportation Commission appointed by resolution of the Commission.
- 1.08 "Meeting" shall mean any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication pursuant to § 24-6-402(1)(b), C.R.S.
- 1.09 "Secretary" shall mean the Secretary of the Transportation Commission of Colorado.



1.10 "Standing Committee" shall mean a committee created by the Commission to address a general need of a continuous nature.

1.11 "State" shall mean the State of Colorado.

2.00 Commission Members – Elections – Appointments - Successions

2.01 The Commission consists of eleven members, appointed by the Governor with the consent of the Senate for terms of four years. Each Commissioner shall reside in the district the Commissioner represents.

2.02 All members of the Commission shall take an oath of office prescribed by the constitution of the state for state officers and the oath shall be filed by the Secretary in the Office of the Secretary of State.

2.0.3 The members of the Commission and their successors shall constitute a body corporate to be known as the "Transportation Commission of Colorado"; shall have the power to adopt and use a common seal and to change and alter such seal at will; and shall have and exercise all powers necessarily incident to a body corporate.

2.04 All members of the Commission shall also serve as members of the Bridge Enterprise Board of Directors.

2.05 Three members of the Commission shall be appointed by Commission ratifying resolution to serve on the Board of Directors of the High Performance Transportation Enterprise. 2.06 Annual election of officers shall be the last order of business at the Commission's regular June meeting. The elected officers' terms shall begin on July 1, and expire on June 30 of the following year. 2.07 The Commission shall elect a Chairman, Vice Chairman and Secretary to serve for one year or until successors are elected.

2.08 The Chairman shall preside at all regular meetings of the Commission. The Chairman shall be a member of the Commission.

2.09 The Vice Chairman, in the absence or disability of the Chairman shall perform the duties of the Chairman. The Vice Chairman shall be a member of the Commission.

2.10 In the absence or disability of the Chairman or Vice Chairman, the Commission shall elect from its members present a Chairman pro tempore who shall perform the duties of the Chairman for that meeting.

2.11 The Secretary shall assist the Chairman in conducting the meetings of the Commission and shall keep the books and records of the Commission. The Secretary shall be a member of the Department staff.

3.00 Committees of the Commission

3.01 The Commission may create Standing Committees by full consent of the Commission as it deems necessary. Members shall be appointed by the Chairman, with the consent of the full Commission, to all existing Standing Committees. Members so appointed shall begin serving by the July regular meeting on the respective Committees and serve for one year or until their successors are appointed. The Commission shall ratify the appointments of members to Standing Committees by resolution. The Commission has created the following Standing Committees:

3.01.1 The Audit Review Committee ("ARC"), which shall be comprised of at least three but no more than five members of the Commission who shall meet periodically with executive

management and the Audit Director to review audits, reports and activities of the internal Audit Division.

3.01.2 The Small Business and Diversity ("SBD") Committee, which shall be comprised of at least three but no more than five members of the Commission who shall meet periodically with executive management and the Director of the Civil Rights and Business Resource Center to review the civil rights and small business programs. ~~3.01.3 The Safety Committee, which shall be comprised of at least three but no more than five members of the Commission who shall meet periodically with executive management to review the safety program.~~

3.01.43 The Transit and Intermodal Committee ("T&I Committee"), which shall be comprised of at least three but no more than five members of the Commission who shall meet periodically with executive management and the Division of Transit and Rail Director to review transit and rail policies and practices.

3.02 ~~3.01.5~~ The Efficiency and Accountability Committee, which is reestablished pursuant to § 43-1-106(17)(a), C.R.S., shall seek ways to maximize the efficiency and accountability of the Department and the Transportation Commission to allow increased investment in the transportation system over the short, medium, and long term, in compliance with § 43-1-106(17)(a), C.R.S.

A. Membership shall include, from the Executive Branch of the state government:

1. One member of the Commission designated by the Commission;
2. One member of the Office of the Executive Director designated by the Executive Director;
3. One member from each of the divisions of the Department created in § 43-1-104(1) C.R.S., designated by the Executive Director after consultation with the directors of each division; and
4. Any other employees of the Department the Executive Director may designate.

B. Membership shall include, from the Legislative Branch of the state government:

1. Two members of the House of Representatives, one appointed from the majority party by the speaker of the House of Representatives and one appointed from the minority party by the minority leader of the House of Representatives, pursuant to § 43-1-106(17); and
2. Two members of the Senate, one appointed from the majority party by the president of the Senate and one appointed from the minority party by the senate minority leader, pursuant to § 43-1-106(17).

C. Membership shall include, from outside state government, representatives of:

1. The construction Industry;
2. The engineering industry;
3. The environmental community;

4. Transportation planning organizations;
5. Public transportation providers;
6. Counties;
7. Municipalities;
8. Nonpartisan good governance organizations;
9. Any other industries or groups that the Commission determines should be represented on the committee; and
10. Any individuals or representatives of informally constituted groups of individuals that the Commission determines should be represented on the Committee.

D. The Efficiency and Accountability Committee shall periodically report to the Commission and the Executive Director regarding means by which the Commission and the Department may execute their duties more efficiently. The Executive Director or the Director's designee shall report at least once per calendar year to either the committees of the House of Representatives and the Senate that have jurisdiction over transportation or the Transportation Legislation Review Committee regarding their activities and recommendations and any actions taken by the Commission or Department to implement recommendations of the committee.

E. A member of the Efficiency and Accountability Committee who has a personal or private interest that could reasonably be expected to be affected if the Commission or the Department implements a proposed Committee recommendation shall disclose the interest to the Committee and shall abstain from any Committee vote to adopt or reject the recommendation.

3.023 The Chairman, with the consent of a majority of the Commission members, may appoint Ad Hoc Committees as deemed necessary to provide for the efficient conduct of the Commission's business; such committees shall serve at the pleasure of the Chairman.

4.00 Commission Attendance and Notice to Commission of Scheduled Meetings

4.01 Each Commissioner is encouraged to attend the following:

4.01.1 All meetings and hearings of the Commission.

4.01.2 All meetings or gatherings of private groups or associations at which Commission representation is requested.

4.01.3 All organized official field trips of the Commission.

4.01.4 All meetings of the Department and private companies, groups or governmental entities which the Commissioner attends at the request of the Chairman or the Executive Director.

4.01.5 All Commission meetings with Legislators, the Joint Budget Committee, the House Transportation and Energy Committee, and the Senate Transportation Committee.

- 4.01.6 All meetings of any standing or Ad Hoc Committee to which a Commissioner is appointed.
- 4.01.7 All meetings a Commissioner is assigned to attend as a representative of the Commission.
- 4.02 All absences of Commissioners at a meeting or hearing of the Commission shall be noted by the Secretary in the minutes of any meeting or hearing of the Commission. Commissioners are encouraged to notify the Secretary or Chairman in advance of any meeting or hearing if they will be unable to attend or if they will be absent from a portion of the meeting or hearing.
- 4.03 If a Commissioner does not answer roll call at the beginning of the meeting, that Commissioner shall be deemed absent unless excused by the Chairman or his or her subsequent arrival is noted in the minutes.
- 4.04 Except under special or emergency circumstances, the Secretary will provide to the Commission copies of material pertaining to items that require action within seven days of the meeting.
- 4.05 Special meetings may be called by the Governor, the Executive Director, the Chairman or a majority of the members of the Commission. The Secretary shall provide notice of any special meeting to the Commission by mail or electronic mail no less than three days prior to the date of any special meeting. However, in case of emergency, a 24-hour notice shall be given by telephone or electronic mail. See § 43-1-106(6) C.R.S.
- 5.00 Schedule of Meetings – Meeting Location**
- 5.01 Except as provided in this section, regular meetings of the Commission shall be held on the third Thursday of each month and no less than eight times a year.
- 5.02 A schedule of regular meetings of the Commission shall be established and adopted each July for such fiscal year.
- 5.03 The Chairman of the Commission may propose postponement or advancement of the time and date of any regular meeting for Commission action and the Chairman may remove items from the agenda or rearrange the order of the agenda items.
- 5.04 The Commission meetings shall be held at Headquarters or at other locations throughout the state. The Commission will consider holding at least two of its meetings per 12-month period outside the Denver area to enable persons throughout the state to attend its meetings and express their opinions to the Commission.
- 6.00 Public Notice of Meetings**
- 6.01 Public Notice of Commission meetings will be given as provided for in the Colorado Sunshine Act of 1972 (§ 24-6-401, *et seq.* C.R.S.).
- 6.02 All meetings of two or more members of the Commission at which public business is discussed or at which any formal action may be taken are declared to be public meetings and shall be open to the public at all times, excluding the convening of an executive session pursuant to Rule 7.09. See 24-6-402(2)(a), C.R.S.
- 6.03 Any meetings at which the adoption of any proposed policy, position resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the Commission is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. See § 24-6-402(2)(c), C.R.S.

6.04 The Commission shall be deemed to have given full and timely notice if the notice of the meeting is posted in the lobby of CDOT Headquarters and on CDOT's website, no less than twenty-four hours prior to the holding of the meeting.

6.05 In addition to the provisions of 6.04 of this rule, public notice of the regular meeting date and proposed agenda shall be posted by the Secretary in the lobby of the Headquarters and on CDOT's website at least five days prior to the meeting, or as soon as practicable.

7.00 Conduct of Meetings – Matters Coming Before the Commission

7.01 In any lawsuit or proceedings, all meetings of the Commission shall be presumed to have been duly called and regularly held.

7.02 Except for matters to be considered by the Commission in Executive Session pursuant to § 24-6-402(3)(a) or § 24-6-402(3)(b), C.R.S., all meetings of the Commission shall be open to the public and shall be conducted by the Chairman generally under Robert's Rules of Order, but may proceed on an informal basis.

7.03 A quorum of the Commission shall be six members. If a quorum of the Commission is present, a majority vote of the members present shall be required to carry any motion, order, regulation or other action of the Commission.

7.04 All formal action of the Commission shall be by resolution adopted at a regular or special meeting of the Commission as required by statute.

7.05 All resolutions originated by Department staff which require a legal determination must be approved as to legality and form by the Office of the Attorney General or its designee before being accepted as an action item on a Commission meeting agenda.

7.06 Persons or groups wishing to make a presentation at a Commission meeting or hearing may make a request to be placed on the agenda by contacting the Secretary in writing at CDOT Headquarters at least 17 days prior to the meeting. The public is encouraged to participate at these meetings.

7.07 The Secretary will furnish sign-in sheets for public comment at all meetings of the Commission. They will be available at the door of the meeting room.

7.08 Items which are not included or identified as action items in the public notice of the Commission meeting agenda may, nonetheless, be considered by the Commission for action at the noticed meeting on an emergency basis, provided that the items must be approved for action by either the Chairman or a majority of the Commissioners and that the Secretary must post public notice of such additional action items in accordance with the provisions of Section 6.00 of this rule.

7.09 Upon the announcement by the Commission to the public of the topic for discussion and after providing as much detail as possible without compromising the purpose for which the executive session is authorized, and by the affirmative vote of two-thirds of its members, the Commission may hold an Executive Session at a regular or special meeting for the sole purpose of considering any of the matters described in § 24-6-402(3)(a) or § 24-6-402(3)(b), C.R.S.. No adoption of any proposed policy, position, resolution, rule, regulations, or formal action, except the review, approval, and amendment of the minutes of an executive session shall occur at any executive session that is not open to the public.

8.00 Records - Minutes

8.01 All meetings of the Commission shall be electronically recorded.

- 8.02 The Secretary shall make and maintain minutes of all Commission meetings. Minutes shall be written in the order in which the issues were considered at the meeting, shall be prepared promptly, and shall be open to public inspection. Minutes of each meeting shall state, by name, the Commissioners that are either present or absent and all Department executive management that are present.
- 8.03 Minutes shall include all matters considered and action taken, if any, but need not be a verbatim transcript. The minutes shall reflect the number of yea and nay votes on each action item and shall state by name the Commissioners voting yea or nay, if there is a division of the vote.
- 8.04 Minutes of any meeting shall be approved, rejected or modified at the next regular meeting. After approval or modification, minutes shall be signed by the Secretary and made a part of the Commission's records. A copy of the signed minutes of any Commission meeting shall be available to the public upon request.
- 8.05 The minutes and records of the Commission, books of account, and the seal of the Commission shall be kept in the office of the Secretary and shall be open to public inspection.
- 8.06 The Commission shall retain records in keeping with the requirements of § 24-80-101, *et seq.*, C.R.S.; however, with regard to the electronic recording of executive sessions, the records shall be kept for ninety days pursuant to § 24-6-402(2)(d.5)(I)(E), C.R.S. The audio files shall be kept permanently by the Secretary.

9.00 Compensation – Reimbursement of Expenditures

- 9.01 Pursuant to § 43-1-106 (6), C.R.S., each member of the Commission shall receive seventy-five dollars per day for each regular or special meeting of the Commission actually attended and shall be reimbursed for his or her necessary expenses incurred in the discharge of such member's official duties and in accordance with Fiscal Rules and Commission policy.
- 9.02 Mileage rates for necessary travel shall be computed in accordance with § 24-9-104, C.R.S., as amended.

10.00 Standards of Conduct – Conflicts of Interest – Disclosure

- 10.01 A conflict of interest occurs whenever a Commissioner has privileged information or a financial interest which may influence or be reasonably perceived by the public as influencing the conduct of the Commissioner.
- 10.02 A Commissioner holds a position of public trust and has a fiduciary duty to carry out his or her duties for the benefit of the people of the state in a manner consistent with the applicable standards of conduct of § 24-18-101 through § 24-18-206, C.R.S. Each Commissioner shall comply with such standards, as follows:

10.02.1 A Commissioner shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which he has a direct or substantial financial interest.

10.02.2 "Financial interest" means a substantial interest held by an individual which is:

- (1) An ownership interest in a business;
- (2) A creditor interest in an insolvent business;
- (3) An employment or a prospective employment for which negotiations have begun;

- (4) An ownership interest in real or personal property;
- (5) A loan or any other debtor interest; or
- (6) A directorship or officership in a business.

10.03 However, a Commissioner may, prior to acting in a manner described above which may impinge on his or her fiduciary duty and the public trust, disclose the nature of his or her private interest in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his or her services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his or her interest. If he or she then performs the official act involved, he or she shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

11.00 Adoption of Rules and Regulations

11.01 All rulemaking proceedings authorized by law to be conducted by the Commission, or by a designee on behalf of the Commission, shall be conducted in accordance with the State Administrative Procedure Act ("APA"), § 24-4-101 *et seq.*, C.R.S.

12.00 Commission Adjudicatory Hearings

12.01 Adjudicatory hearings, [including petitions for Declaratory Orders pursuant to § 24-4-105\(11\), C.R.S.](#), may be conducted by the Commission on any issues within the Commission's jurisdiction or the hearing may be delegated by the Commission either to an Administrative Law Judge, in the Division of Administrative Hearings, Department of Administration, or to the Department of Transportation's Executive Director to act as the Hearing Officer. Hearings shall be conducted in accordance with the State Administrative Procedure Act ("APA") § 24-4-101, *et seq.* C.R.S., unless the Commission's or the Department of Transportation's enabling legislation provides otherwise.

12.02 In cases where the Department conducts adjudicatory hearings, either through the Executive Director or his designee, which may be but shall not be limited to the Chief Engineer or an Administrative Law Judge. The Executive Director, or his or her designee, shall file a written report with the Commission for review setting forth the evidence and the findings and the application of the findings to statutes and rules. Upon review, the Commission may then sustain findings or make new findings based upon the record.

Exhibit 8

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 16-1172

BY REPRESENTATIVE(S) Saine and Primavera, Nordberg, Ryden, Becker K., Brown, Carver, Conti, Court, Duran, Fields, Humphrey, Kraft-Tharp, Lawrence, Lebsock, Lontine, Mitsch Bush, Neville P., Pabon, Pettersen, Priola, Ransom, Rosenthal, Roupe, Salazar, Van Winkle, Windholz, Wist, Hullinghorst;
also SENATOR(S) Holbert and Neville T., Carroll, Jahn, Jones, Martinez Humenik, Merrifield, Todd, Woods.

CONCERNING THE REESTABLISHMENT OF A STANDING EFFICIENCY AND ACCOUNTABILITY COMMITTEE BY THE STATE TRANSPORTATION COMMISSION, AND, IN CONNECTION THEREWITH, EXPANDING THE MEMBERSHIP AND RESPONSIBILITIES OF THE COMMITTEE, SUBJECTING THE COMMITTEE TO SUNSET REVIEW, REQUIRING A COMMITTEE MEMBER TO DISCLOSE A PERSONAL OR PRIVATE INTEREST THAT COULD BE AFFECTED BY A PROPOSED COMMITTEE RECOMMENDATION AND ABSTAIN FROM ANY COMMITTEE VOTE TO ADOPT OR REJECT THE RECOMMENDATION, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly declares that:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.



(a) Current law, enacted in 2009, requires the transportation commission (commission) to create a standing efficiency and accountability committee (committee) consisting of both department of transportation employees and representatives of various nongovernmental transportation stakeholders;

(b) The commission established the committee as required by law, but the committee was disbanded in 2013 because, according to the department of transportation, the efforts of a separate office of process improvement established by the department to improve the department's efficiency were "significant and successful" and committee members did not believe that any further committee recommendations were necessary;

(c) The disbanding of the committee was not authorized by state law;

(d) A recent performance audit of the collection and usage of motor vehicle fees collected as authorized by the "Funding Advancements for Surface Transportation and Economic Recovery Act of 2009" indicates that, notwithstanding some progress and successes, opportunities remain to improve the efficiency and accountability of the commission and the department of transportation; and

(e) In order to improve the efficiency and accountability of the commission and the department of transportation, it is necessary and appropriate to:

(I) Require the commission to reestablish the committee;

(II) Expand the membership of the committee to include legislative members and representatives of local governments and nonpartisan good governance organizations; and

(III) Clarify and expand the responsibilities of the committee to ensure that it addresses not only efficiency, but also accountability.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, **add** (3) (ff) (VI) as follows:

2-3-1203. Sunset review of advisory committees. (3) The

following dates are the dates on which the statutory authorization for the designated advisory committee is scheduled for repeal:

(ff) July 1, 2019:

(VI) THE STANDING EFFICIENCY AND ACCOUNTABILITY COMMITTEE CREATED IN SECTION 43-1-106, C.R.S.

SECTION 3. In Colorado Revised Statutes, 43-1-106, **amend** (17) (a) introductory portion, (17) (a) (I) introductory portion, (17) (a) (II) (E), (17) (a) (II) (F), and (17) (b); and **add** (17) (a) (I.5), (17) (a) (II) (G), (17) (a) (II) (H), (17) (a) (II) (I), (17) (a) (III), (17) (c), and (17) (d) as follows:

43-1-106. Transportation commission - powers and duties - repeal. (17) (a) The commission shall ~~create a~~ REESTABLISH THE standing efficiency and accountability committee THAT WAS INITIALLY ESTABLISHED IN 2009 AND DISBANDED IN 2013. The committee shall seek ways to maximize the efficiency AND ACCOUNTABILITY of the department to allow increased investment in the transportation system over the short, medium, and long term. The committee shall include:

(I) From THE EXECUTIVE BRANCH OF state government:

(I.5) FROM THE LEGISLATIVE BRANCH OF STATE GOVERNMENT:

(A) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE APPOINTED FROM THE MAJORITY PARTY BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE APPOINTED FROM THE MINORITY PARTY BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES; AND

(B) TWO MEMBERS OF THE SENATE, ONE APPOINTED FROM THE MAJORITY PARTY BY THE PRESIDENT OF THE SENATE AND ONE APPOINTED FROM THE MINORITY PARTY BY THE SENATE MINORITY LEADER;

(II) From outside state government, representatives of:

(E) Public transportation providers; and

(F) ~~Any other industries or groups that the commission determines should be represented on the committee.~~ COUNTIES;

(G) MUNICIPALITIES;

(H) NONPARTISAN GOOD GOVERNANCE ORGANIZATIONS; AND

(I) ANY OTHER INDUSTRIES OR GROUPS THAT THE COMMISSION DETERMINES SHOULD BE REPRESENTED ON THE COMMITTEE; AND

(III) ANY INDIVIDUALS OR REPRESENTATIVES OF INFORMALLY CONSTITUTED GROUPS OF INDIVIDUALS THAT THE COMMISSION DETERMINES SHOULD BE REPRESENTED ON THE COMMITTEE.

(b) The efficiency and accountability committee shall SEEK TO ENSURE THAT THE COMMISSION AND THE DEPARTMENT EXECUTE THEIR DUTIES EFFICIENTLY AND IN COMPLIANCE WITH ALL APPLICABLE FEDERAL AND STATE LEGAL REQUIREMENTS. THE COMMITTEE SHALL periodically report to the commission and the executive director ~~regarding~~ IN ORDER TO RECOMMEND means by which the commission and the department may execute their duties more efficiently, POINT OUT ANY FAILURES OF THE COMMISSION OR THE DEPARTMENT TO COMPLY WITH APPLICABLE FEDERAL AND STATE LEGAL REQUIREMENTS, AND RECOMMEND IMPROVEMENTS TO COMMISSION OR DEPARTMENT PROCEDURES THAT REDUCE THE LIKELIHOOD OF INADVERTENT LEGAL COMPLIANCE FAILURES. THE COMMITTEE SHALL ALSO SPECIFICALLY EXAMINE ACTIONS TAKEN BY THE COMMISSION AND THE DEPARTMENT IN RESPONSE TO THE AUGUST 2015 PERFORMANCE AUDIT REPORT PREPARED BY THE STATE AUDITOR TITLED "COLLECTION AND USAGE OF THE FASTER MOTOR VEHICLE FEES" AND REPORT ITS FINDINGS REGARDING THE APPROPRIATENESS, EFFECTIVENESS, AND EFFICIENCY OF THOSE ACTIONS. The executive director or the executive director's designee shall report at least once per calendar year to either the committees of the house of representatives and the senate that have jurisdiction over transportation or the transportation legislation review committee created in section 43-2-145 (1) regarding the activities and recommendations of the efficiency and accountability committee and any actions taken by the commission or the department to implement recommendations of the committee. NOTWITHSTANDING SECTION 24-1-136 (11) (a), C.R.S., THE REPORTING REQUIREMENT CONTINUES INDEFINITELY.

(c) A MEMBER OF THE EFFICIENCY AND ACCOUNTABILITY COMMITTEE WHO HAS A PERSONAL OR PRIVATE INTEREST THAT COULD REASONABLY BE EXPECTED TO BE AFFECTED IF THE COMMISSION OR THE

DEPARTMENT IMPLEMENTS A PROPOSED COMMITTEE RECOMMENDATION SHALL DISCLOSE THE INTEREST TO THE COMMITTEE AND SHALL ABSTAIN FROM ANY COMMITTEE VOTE TO ADOPT OR REJECT THE RECOMMENDATION.

(d) THIS SUBSECTION (17) IS REPEALED, EFFECTIVE JULY 1, 2019. BEFORE ITS REPEAL, THIS SUBSECTION (17) IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203 (3), C.R.S.

SECTION 4. Appropriation. For the 2016-17 state fiscal year, \$3,248 is appropriated to the legislative department for use by the general assembly. This appropriation is from the general fund. To implement this act, the general assembly may use this appropriation for per diem and travel expenses.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016

and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

Exhibit 9

4201 East Arkansas Avenue
 Denver, Colorado 80222
 (303)757-9723
 (303)757-9441



COLORADO
 Department of Transportation
 Office of Policy and Government Relations

Colorado Department of Transportation Hearing Attendance Record
 2 CCR 601-11, Rules Governing Practice and Procedures of the Transportation Commission of Colorado
September 12, 2016 1:00 p.m. CDOT Headquarters Auditorium

Please sign in (even if you don't wish to speak) and print clearly

Name and Organization:	Email Address:	Do you wish to speak? (y or n)	Submitting written comments?	Do you wish to receive notice of all CDOT rule making hearings by email?
Christine Rees	christine.rees@state.co.us	Hearing Officer	no	no
Herman Stockinger	herman.stockinger@state.co.us	NO	NO	NO
Rachel Desormes	rachel.desormes@state.co.us	no	no	No



4201 East Arkansas Avenue
 Denver, Colorado 80222
 (303)757-9723
 (303)757-9441



COLORADO
 Department of Transportation
 Office of Policy and Government Relations

Colorado Department of Transportation Hearing Attendance Record
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Please sign in (even if you don't wish to speak) and print clearly

Name and Organization:	Email Address:	Do you wish to speak? (y or n)	Submitting written comments?	Do you wish to receive notice of all CDOT rule making hearings by email?
Meny Fuen News CDOT		No	No	
Zach Alexander CDOT		Yes	NO NO	
Marie Nakagawa CDOT		yes	NO NO	
Olivia Martinez CDOT		No	No	
Andy Frohardt AG	andy.frohardt@co.gov	No	No	