

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION
Office of the Executive Director
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October 23, 2013

Mr. Mike Mauer
Director
Legislative Council Staff
Colorado General Assembly
State Capitol, Room 029
Denver, CO 80203

RE: Colorado Department of Transportation 2014 Department Regulatory Agenda

Dear Mr. Mauer:

Pursuant to Section 2-7-203(2)(a)(IV), C.R.S., this letter serves as the Colorado Department of Transportation's (CDOT) submission of its 2014 Department Regulatory Agenda. As required, this report provides a list of new rules or existing rule revisions that CDOT expects to propose in 2014,¹ as well as the statutory or other basis for adoption of the proposed rules, purpose of the proposed rules, contemplated scheduled for adoption of the rules,² and a listing of persons or parties that may be affected by the rules. Additionally, this letter summarizes the rule-making activities conducted in 2013.

This Department Regulatory Agenda is available to the public at www.coloradodot.info/business/rules and was submitted to the Secretary of State for publication in the Colorado Register, as is also required by state law. Furthermore, at the annual oversight hearing before the Joint Transportation Committee prior to the 2014 legislative session, CDOT will be prepared to discuss this material and respond to legislator questions.

2014 Department Regulatory Agenda

1. Rules Governing Construction Bidding for CDOT Public Projects, 2 CCR 601-10

- ***Statutory Basis:*** Section 24-92-110, C.R.S.
- ***Purpose of the Rules:*** These rules concern bridge and highway construction bidding practices including the debarment of contractors. The rules were last adopted in 2006. The passage of House Bill 13-1292 by the General Assembly

¹ CDOT has included in this Department Regulatory Agenda all rule-making foreseen for the 2014 calendar year; however, 2014 statutory changes by the General Assembly or other procedures may necessitate review and revision of other existing rules.

² The contemplated schedule is based on the timing requirements set forth in existing statute under the State Administrative Procedure Act, Section 24-4-103, C.R.S., and takes into account the public meetings of the Transportation Commission which will open the rules, and later adopt the rules, during their monthly public meetings. The calendars listed could change based on various factors, including additional time needed for input from the representative groups and interested parties.

necessitates revision to the rules. House Bill 13-1292 made modifications to procurement requirements for government contracts, including the evaluation of competitive sealed best value bids regarding construction contracts pursuant to § 24-92-103.5(3), C.R.S.

- ***Contemplated Schedule:*** A notice of rule-making will be filed with the Secretary of State in December 2013; a public rule making hearing will be held in January 2014; adoption of the rules will occur in February 2014, and permanent rules will become effective March 2014.
- ***Persons/Parties That May be Affected by the Rules:*** The rules impact CDOT's internal bid processes and all contractors submitting bids on state-funded public projects.

2. Rules Governing the Transportation Commission Procedures, 2 CCR 601-11

- ***Statutory Basis:*** Sections 43-1-106(6) and 43-1-106(8)(k), C.R.S.
- ***Purpose of the Rules:*** The Department is required to promulgate rules which govern the Transportation Commission's procedures. These rules were last updated in 2011. The Commission is revising these rules the month commission appointments take office to conform the officer appointments to the expiration of commission appointments in July.
- ***Contemplated Schedule:*** A notice of rule-making will be filed with the Secretary of State in January 2014; a public rule making hearing will be held in March 2014; adoption of the rules will occur in May 2014, and permanent rules will become effective July 2014.
- ***Persons/Parties That May be Affected by the Rules:*** members of the Transportation Commission.

3. Rules Governing the Use of the Tunnels on State Highways, 2 CCR 601-8

- ***Statutory Basis:*** Sections 42-4-106 (7) (a) and (b) C.R.S.
- ***Purpose of the Rules:*** These rules govern the operation of vehicles in tunnels on state highways including those transporting any article deemed to be dangerous. The rules were last adopted in 1986, with minor revisions made in 2008. The Department initially intended to update the rules in 2013; however, the time required to research and draft these technical rules took longer than anticipated. The reason for the rule revision is to correct references to federal regulations, update procedures and simplify language in keeping with Executive Orders D 2011-005 and D 2012-002.
- ***Contemplated Schedule:*** The Transportation Commission is expected to open the rule-making process in February 2014, and may adopt temporary rules at the same time. A notice of rule-making will be filed with the Secretary of State in February 2014; a public rule making hearing will be held in April 2014; adoption of the rules will occur in June 2014, and permanent rules will become effective in August, 2014.
- ***Persons/Parties That May be Affected by the Rules:*** The rules primarily impact the trucking industry and specifically those carrying placarded loads (including hazardous materials). The rules also impact all members of the public travelling through tunnels on state highways. CDOT has not finalized its list of interested persons for this set of rules; however, it will include at a minimum representatives from the Colorado State Patrol, Colorado Counties, Inc., Colorado Motor Carriers

Association, Colorado Municipal League, Colorado/Wyoming Petroleum Marketers Association, local government entities, and all individuals and entities considered to be impacted by the rules or who have expressed an interest in the rule making.

4. Rules Governing Roadside Advertising in Colorado, 2 CCR 601-3

- **Statutory Basis:** Sections 43-1-415(1), and 43-1-414(1), C.R.S. and 23 CFR 750.
- **Purpose of the Rules:** The rules are intended to carry out the provisions of § 43-1-402, C.R.S., and the federal Highway Beautification Act of 1965, 23 U.S.C. 131, 23 CFR 750 by establishing a statewide uniform program controlling the use of advertising devices in areas adjacent to the state highway system. The rules were last updated in 1984. The Department initially intended to update the rules in 2013. However, the Office of the State Auditor conducted an audit in 2013 and the Department delayed its rule-making efforts to address more completely and thoroughly all audit findings.
- **Contemplated Schedule:** The rule making process is set later in the calendar year in the event legislation enacted during the 2014 legislative session impacts the draft rules. A notice of rule-making will be filed with the Secretary of State in April 2014; a public rule making hearing will be held in June 2014; adoption of the rules will occur in July 2014, and permanent rules will become effective in August, 2014.
- **Persons/Parties That May be Affected by the Rules:** The rules impact permit holders of outdoor advertising devices (i.e. billboards) as well as members of the travelling public. CDOT has not finalized its list of interested persons for this set of rules; however, it will include at a minimum a significant number of outdoor advertising device permit holders, Colorado Logos, Colorado Counties, Inc., Colorado Municipal League, Colorado Motor Carriers Association, Scenic Colorado, and all individuals and entities considered to be impacted by the rules or who have expressed an interest in CDOT rule making.

5. Rules Regarding Transport Permits for the Movement of Extra-Legal Vehicles or Loads (“Oversize Overweight Rules”), 2 CCR 601-4

- **Statutory Basis:** Sections 42-4-510(1.7)(b)(II)(B) and 42-4-511(1), C.R.S.
- **Purpose of the Rules:** The purpose of the rules is to set forth the requirements pertaining to the movement on state highways of vehicles and loads exceeding legal limits and the permitting for such vehicles and loads. These rules were last updated in 2012. The Department must update the rules due to a change in federal law pursuant to 23 U.S.C. 127, (“Moving Ahead for Progress in the 21st Century” or “MAP-21”) which impacts the movement of overweight loads on interstate highways for delivery of relief supplies during a presidentially-declared emergency or major disaster. In addition, the Auxiliary Power Unit (APU) allowance was increased from 400 pounds to 550 pounds.
- **Contemplated Schedule:** In May 2014, the Transportation Commission is expected to open the rules and a notice of rule-making will be filed with the Secretary of State at that time; a public rule making hearing will be held in July 2014; adoption of the rules will occur in September 2014, and permanent rules will become effective in November 2014.

- ***Persons/Parties That May be Affected by the Rules:*** These rules primarily impact the motor carrier industry and to a lesser degree the motoring public. CDOT has not finalized its list of interested persons for this set of rules; however, it will include at a minimum Colorado Counties, Inc., Colorado Municipal League, Colorado Motor Carriers Association, and all individuals and entities considered to be impacted by the rules or who have expressed an interest in CDOT rule making.

2013 Department Regulatory Agenda (Completed Rules)

The following rules were completed in 2013:

- ***Rules Governing the Motorcycle Operator Safety Training Program, 2 CCR 601-22. Statutory Basis:*** Section 43-5-502(1)(d), C.R.S.
- ***High Performance Transportation Enterprise (HPTE) Rules Concerning the Administration of Toll Enforcement Process, 2 CCR 606-1. Statutory Basis:*** Sections 43-4-808(2)(b)(I) and 43-4-808(2)(d)(II), C.R.S.
- ***Statewide Transportation Planning Process and Transportation Planning Regions. Statutory Basis:*** Sections 43-1-1103 (5), C.R.S., and 43-1-106 (8)(k), C.R.S.
- ***Rules Pertaining to LOGOS and TODS Signs, 2 CCR 601-7. Statutory Basis:*** Sections 43-1-415(1) and 43-1-420(3), C.R.S.
- ***Rules Regarding State Highway Access Category Assignment Schedule, 2 CCR 601-1A. Statutory Basis:*** Section 43-2-147, C.R.S.

Should you have questions, please contact Kurtis Morrison, CDOT State and Federal Liaison, at (303) 757-9703. Thank you.

Sincerely,



Donald Hunt
Executive Director

cc: Representative Max Tyler, Chair, House Committee on Transportation
Senator Rollie Heath, Chair, Senate Committee on Transportation
Ms. Kelli Kelty, Legislative Council Staff
Ms. Mistia Zuckerman, Legislative Council Staff
Ms. Mary Frances Nevans, Rules Administrator, CDOT