

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION
Office of the Executive Director
4201 East Arkansas Avenue
Denver, CO 80222
Phone: 303-757-9201



November 1, 2012

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

RE: Colorado Department of Transportation 2013 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 2013 Department Regulatory Agenda. As required, this report provides a list of new rules or existing rule revisions that CDOT expects to propose in 2013,¹ as well as the statutory or other basis for adoption of the proposed rules, purpose of the proposed rules, contemplated schedule for adoption of the rules,² and a listing of persons or parties that may be affected by the rules.

As required by Section 2-7-203(2)(a)(IV), 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. Furthermore, as required by state law, at the annual oversight hearing before the Joint Transportation Committee in January 2013, CDOT will be prepared to discuss this material and respond to legislator questions.

2013 Department Regulator Agenda

1. Rules Governing the Motorcycle Operator Safety Training Program, 2 CCR 602-3 (new CCR number: 2 CCR 601-22)

- **Statutory Basis:** Section 43-5-502(1)(d), C.R.S.
- **Purpose of the Rules:** The Department is required to promulgate rules to carry out the provisions of the Motorcycle Operator Safety Training (MOST) program. The MOST program rules, 2 CCR 602-3 were last adopted in 2007. CDOT is significantly revising the rules to improve the program and provide greater accountability and transparency as

¹ CDOT has included in this Department Regulatory Agenda all rule-making foreseen for the 2013 calendar year; however, 2013 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 governing boards that 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.

recommended in a recent evaluation by the State Auditor's Office. In keeping with keeping with Executive Order D 2012-002, CDOT's intent is to simplify the language and reduce the number of rules.

- **Contemplated Schedule:** A notice of rule-making will be filed with the Secretary of State in November 2012; a public rule making hearing will be held in December 2012; adoption of the rules will occur in January 2013, and permanent rules will become effective February 2013.
- **Persons/Parties That May be Affected by the Rules:** All MOST Program instructors and vendors, as well as individuals and entities that are directly or indirectly involved in motorcycle safety or endorsements, including the Department of Revenue Division of Motor Vehicles, representatives of the Motorcycle Safety Foundation, Harley Davidson, representatives from county sheriff offices, the Colorado Motor Carriers Association, and any individual or entity who has requested to be notified of CDOT rule making activities.

2. **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.
- **Purpose of the Rules:** Section 43-4-808(2)(b), C.R.S. grants the HPTE the authority to adopt rules pertaining to the enforcement of toll collection and provide a civil penalty for toll evasion. Section 43-4-808(2)(d)(II), C.R.S. provides authority to the HPTE to establish an administrative toll enforcement process and adopt rules creating such a process. The HPTE foresees an expansion of its managed lane network and recognizes the need for a formal administrative enforcement process. It is the intent of the HPTE to develop rules, based on the statutory requirements, which set forth an easily understandable toll enforcement hearing process.
- **Contemplated Schedule:** A notice of rule-making on the permanent rules will be filed with the Secretary of State in November 2012; a public rule making hearing will be held in January 2013; adoption of the rules may occur in January 2013, and if the rules are adopted in January, permanent rules will become effective March 2013. The HPTE will consider adoption of emergency rules in November; if it does, the rules will become effective immediately, and will expire in March 2013.
- **Persons/Parties That May be Affected by the Rules:** The HPTE is still developing the list of interested parties; however, it will include: C-470 Coalition, Cintra Public-Private Partnership, City and County of Denver, E-470 Public Highway Authority, Isolux Public-Private Partnership, Jefferson Parkway Public Highway Authority, NATA (North Area Transportation Alliance), Northwest Parkway Public Highway Authority, Plenary Public-Private Partnership, U.S. 36 Mayors and County Commissioners, and all individuals and entities considered to be impacted by the rules or who have expressed an interest in CDOT rule making.

3. **Rules Regarding State Highway Access Category Assignment Schedule, 2 CCR 601-1A**

- **Statutory Basis:** Section 43-2-147, C.R.S.
- **Purpose of the Rules:** The Transportation Commission may update these rules to conform to changes in the design and location of driveways and other points of access to public highways, taking into consideration the factors set forth in Section 43-2-147(4), C.R.S., including existing and projected traffic volumes, the functional classification of public highways, adopted local transportation plans and needs, adopted local land use plans and zoning, the availability of vehicular access from local streets and roads rather than a state highway, and reasonable access by city streets and county roads.
- **Contemplated Schedule:** A notice of rule-making will be filed with the Secretary of State in January 2013; a public rule making hearing will be held in March 2013; adoption of the rules will occur in May 2013, and rules will become effective in July 2013.

- **Persons/Parties That May be Affected by the Rules:** CDOT has not finalized its list of interested persons for this set of rules; however, it will include at a minimum Colorado Counties, Inc., the 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.

4. **Rules Pertaining to LOGOS and TODS Signs, 3 2 CCR 601-7**

- **Statutory Basis:** Sections 43-1-415(1) and 43-1-420(3), C.R.S.
- **Purpose of the Rules:** CDOT will promulgate these rules in order to continue its uniform statewide program to control the erection and maintenance of LOGO and TODS devices and to provide directional information to qualified business establishments offering services to the traveling public. The rules are being amended to conform to a change in statutory language as a result of House Bill 12-1108 recently enacted by the General Assembly. This legislation amended Section 43-1-420, C.R.S. to allow specific information signs and tourist-oriented directional signs to be erected and maintained within highway rights-of-way, and removed the restriction that signs not be erected in urbanized areas.
- **Contemplated Schedule:** A notice of rule-making will be filed with the Secretary of State in January 2013, a public rule making hearing will be held in February 2013, adoption of the rules will occur in March 2013, and the rules will become effective in April 2013.
- **Persons/Parties That May be Affected by the Rules:** CDOT has not finalized its list of interested persons for this set of rules; however, it will include at a minimum: Colorado Logos, existing state and national customers (merchants) and agencies for customers that participate in the LOGOS and TODS program Colorado Counties, Inc., the Colorado Municipal League, Colorado Motor Carriers Association, Scenic Colorado, and all individuals and entities considered to be impacted by the rules or that have expressed an interest in CDOT rule making.

5. **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:** The purpose of these rules is to correct references to federal regulations in which citations have changed, update any procedures, and simplify the language in keeping with Executive Order D 2012-002.
- **Contemplated Schedule:** A notice of rule-making will be filed with the Secretary of State in March 2013, a rule-making hearing will be held in May 2013, rules will be adopted in July 2013, and the rules will be effective September 2013.
- **Persons/Parties That May be Affected by the Rules:** 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, local governments affected by the rules, and all individuals and entities considered to be impacted by the rules or who have expressed an interest in CDOT rule making.

6. **Rules Pertaining to Road Sign Advertising, CCR 601-3**

- **Statutory Basis:** Section 43-1-415(1) C.R.S.
- **Purpose of the Rules:** CDOT's promulgation of these rules is to update references to state and federal law, conform the rules to current practice, and simplify the language in keeping with Executive Order D 2012-002. These rules were last updated in 1984. This

3 LOGO signs provide specific information for motorist services such as lodging, food, and fuel. TOD signs are tourist-oriented directional signs.

rule review is set later in the calendar year in the event legislation enacted following the 2013 legislative session would require rule revision.

- **Contemplated Schedule:** A notice of rule-making will be filed with the Secretary of State in July 2013, a public rule making hearing will be held in August 2013, adoption of the rules will occur in September 2013, and the rules will become effective in October 2013.
- **Persons/Parties That May be Affected by the Rules:** CDOT has not finalized its list of interested persons for this set of rules; however, it will include at a minimum 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.

7. **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) and 42-4-511(1), C.R.S.
- **Purpose of the Rules:** These rules will be based on changes in 2012 and 2013 to state or federal law which would require conformance in 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.
- **Contemplated Schedule:** This rule review is set later in the calendar year in the event legislation in the 2013 legislative session requires rule revision. A notice of rule-making will be filed with the Secretary of State in August 2013; a public rule making hearing will be held in October 2013; adoption of the rules will occur in December 2013, and rules will become effective in February 2014.
- **Persons/Parties That May be Affected by the Rules:** 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.

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 Glenn Vaad, Chair, House Committee on Transportation
Senator Evie Hudak, Chair, Senate Committee on Transportation
Ms. Kelli Kelty, Legislative Council Staff
Ms. Kori Donaldson, Legislative Council Staff
Mr. Kurtis Morrison, State and Federal Liaison, CDOT