

Permanent Rulemaking Hearing

2 CCR 605-1

“Rules and Regulations for the Colorado State
Infrastructure Bank”



Exhibits

Rulemaking Hearing on the Rules and Regulations for the Colorado State Infrastructure Bank

2 CCR 605-1 Index of Exhibits

Exhibit	Description
1	A. Resolution dated February 16, 2023 from Transportation Commission, opening the rulemaking process and delegating authority to an administrative hearing officer.
2	A. SOS Notice of Rulemaking Confirmation dated February 28, 2023. B. Proposed Permanent Rules filed with the SOS to open rule making. C. Notice of Rulemaking Hearing filed February 28, 2023. D. Notice of Rulemaking Hearing published in Colorado Register on March 10, 2023.
3	A. DOR Notice of Rule Submission dated February 28, 2023. B. DORA Notice of Rulemaking Confirmation dated February 28, 2023. C. DORA Notice to Stakeholders re: Cost-Benefit Analysis dated February 28, 2023. D. DORA Notice that no Cost-Benefit Analysis is necessary dated March 19, 2023.
4	Screenshot of CDOT rules website indicating final rule language posted February 28, 2023.
5	Statement of Basis and Purpose and Statutory Authority filed February 28, 2023.
6	Notice of February Public Meeting prior to commencing rulemaking
7	Email to Representative Group dated February 28, 2023 regarding notice of hearing and proposed permanent rules.
8	Email to Interested Parties dated February 28, 2023 regarding notice of hearing and proposed permanent rules.
9	Memo to maintain permanent rule making record
10	Proposed Rules for Adoption
11	Registration list for April 7, 2023 hearing [to be added after hearing]

Exhibit 1

Resolution #TC-2023-02-09

Commence Permanent Rulemaking and Delegate Authority to an Administrative Hearing Officer to Conduct a Public Rulemaking Hearing for the Rules and Regulations for the Colorado State Infrastructure Bank (“the Rules”), 2 CCR 605-1.

Approved by the Transportation Commission on February 16, 2023.

WHEREAS, § 43-1-113.5, C.R.S. authorizes the Transportation Commission to promulgate rules and regulations of the Colorado State Infrastructure Bank; and

WHEREAS, On October 15, 2009, the Commission adopted the Rules; and

WHEREAS, the Colorado Department of Transportation (“Department”) reviewed the Rules to assess their effectiveness in carrying out the goal of § 43-1-113.5, C.R.S.; and

WHEREAS, Department staff determined that changing the rule language to allow the Colorado Aeronautical Board to approve State Infrastructure Bank loans for aviation projects directly would improve efficiency; and

WHEREAS, Department staff determined that the Rules required other minor, non-substantive changes; and

WHEREAS, the Commission has the authority to conduct a rulemaking hearing or to delegate the authority to a Hearing Officer for the purposes of conducting the rulemaking 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 amendments to the Rules;

NOW THEREFORE BE IT RESOLVED, the Commission authorizes staff and to take all necessary actions in accordance with the State Administrative Procedure Act to initiate rulemaking for the purpose of opening and amending the Rules, 2 CCR 605-1.

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

Herman
Stockinger

Digitally signed by
Herman Stockinger
Date: 2023.02.22
09:01:37 -07'00'

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Exhibit 2



Agency Rulemaking Home

eDocket

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Notice of Rulemaking Confirmation

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

Date Filed: February 28, 2023 09:19:43

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.Logon>

Your notice of rulemaking has been submitted to the Secretary of State.
Your tracking number is 2023-00137.

Department	600 - Department of Transportation
Type of Filing	Permanent
Agency	605 - Transportation Commission (604, 605 Series)
CCR Number	2 CCR 605-1
CCR Title	COLORADO STATE INFRASTRUCTURE BANK
Hearing Date	04/07/2023
Hearing Time	10:00 AM
Hearing Location	Virtual only - Register at https://cdot.zoom.us/webinar/register/WN_NYwnJ5lhSzmWWJd5mW3VHg
Description	These rules govern the processes for the Colorado State Infrastructure Bank to provide funding for eligible transportation projects. The Transportation Commission proposes several changes to add clarity and improve efficiency of the rules and the funding process, notably by adding a defined role for the Colorado Aeronautical Board for aviation projects.
Statutory Authority	Section 43-1-113.5(3), C.R.S.
Proposed Rule	ProposedRuleAttach2023-00137.pdf
Additional Information	AddInfoAttach2023-00137.pdf
Contacts for Public	
Name	Sari Weichbrodt
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Phone	303--757-9441
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DEPARTMENT OF TRANSPORTATION

Transportation Commission

RULES AND REGULATIONS BY THE COLORADO DEPARTMENT OF TRANSPORTATION FOR THE COLORADO STATE INFRASTRUCTURE BANK

2 CCR 605-1

Chapter 1: ~~RULE I~~—General Provisions

~~1. SECTION 1-~~ Statutory Authority

The statutory authority for the Transportation Commission of Colorado (Commission) to adopt these rules are adopted pursuant to the authority contained is found in sections 43-1-113.5-(3), C.R.S.

~~1. SECTION 2-~~ Purpose

The purpose of these rules is to define eligibility requirements, prescribe the application and selection processes, and to detail certain terms for securing Financial Assistance, for public Transportation Projects within the State, from the CO SIB.

~~1. SECTION 3-~~ Applicability

These rules shall be applicable to any public or private Project Sponsor of public Transportation Projects within the State.

Chapter 2: ~~RULE II~~—Definitions

The following definitions shall apply to terms used in the Rules.

~~(2.1)~~ “CAB” means the Colorado Aeronautical Board, a statutorily created board appointed by the Governor and approved by the Senate.

~~2.2~~ “CO SIB” means shall refer to the Colorado State Infrastructure Bank.

~~2.3(2)~~ “CFR” shall mean the code of federal regulations.

~~(3)~~ “Commission” means shall refer to the transportation commission of Colorado – the State’s transportation decision-making body.

~~2.4(4)~~ “CRS” shall mean the Colorado revised statutes, as amended.

~~(5)~~ “Default” means shall refer to the condition of a loan where the recipient has failed to meet a contractual obligation and failed to cure within thirty (30) days, including but not limited to: failure to make the loan payment; failure to use loan proceeds for stated purpose; failure to submit progress reports.

~~2.5(6)~~ “Department” means shall refer to the Colorado Department of Transportation.

~~2.6(7)~~ “Federal-aid program” means shall refer to any funds authorized by the United States Congress to assist states in providing for transportation.

- ~~2.7(8)~~ “Financial Aassistance” ~~shall means~~ a loan or any credit assistance that the COSIB is authorized to offer.
- ~~2.8(9)~~ “Interest Rate” ~~means shall refer to~~ the semi-annual interest rate approved by the Commission.
- ~~2.9(10)~~ “OFMB” ~~means shall refer to~~ the Colorado Department of Transportation’s Office of Financial Management and Budget.
- ~~2.10(11)~~ “Political Subdivision” ~~shall means~~ a county, municipality, Service Authority, or special district authorized to enter into intergovernmental agreements pursuant to § 29-1-203-(2), C.R.S.
- ~~2.11(12)~~ “Project Sponsor” ~~means shall refer to~~ the entity or organization that is requesting Financial Assistance.
- ~~2.12(13)~~ “Public-Pprivate Initiative” ~~shall means~~ a nontraditional arrangement between the Department and one or more private or public entities as defined in § 43-1-1201-(3), C.R.S.
- ~~2.13(14)~~ “Review Committee” or “Committee” ~~means shall refer to~~ the SIB loan review committee as described in Rule 4.4.1 ~~IV Section 4 (1)~~ herein.
- ~~2.14(15)~~ “State” ~~means shall refer to~~ the state of Colorado.
- ~~2.15(16)~~ “State Agency” ~~shall means~~ every entity in the executive branch of the State’s government including boards, commissions, departments, divisions, and offices.
- ~~2.16(17)~~ “TIP/STIP” ~~shall means~~ the metropolitan planning organization’s multiyear Transportation Improvement Program/Statewide Transportation Improvement Program.
- ~~2.17(18)~~ “Transportation Project” ~~shall means~~ the planned undertaking of an endeavor for the purpose of conveying passengers or goods.

RULE III – Chapter 3: Eligibility Requirements for Financial Assistance

3. SECTION 1- Eligible Project Sponsors

Entities eligible to receive Financial Assistance from the CO SIB shall include public entities such as Political Subdivisions and State Agencies. Also, private companies and non-profit organizations shall be eligible either with a local government partner, or under the authority of a Public-Pprivate Initiative.

3. SECTION 2- Eligible projects

~~3.2.1 (1)~~ Only qualified projects shall be eligible for Financial Assistance. Qualified projects shall include any Commission-authorized project, right-of-way acquisition, federal-aid project, maintenance project, or safety project.

~~3.2.2 (2)~~ Commission-authorized projects – Any public or private Transportation Project as authorized by the Commission including, but not limited to planning, environmental impact studies, feasibility studies, engineering, construction, reconstruction, resurfacing, restoring, rehabilitation, or replacement of a public or private transportation facility within the State.

~~3.2.3 (3)~~ Right-of-way acquisitions – The acquisition of real or personal property, or interests therein, for a public or private transportation facility within the State.

- ~~3.2.(4)~~ Federal projects – Any highway, transit, aviation, rail, or other ~~I~~transportation ~~P~~project within the ~~S~~state that is eligible for financing or ~~F~~financial ~~A~~assistance under ~~S~~state or federal law.
- ~~3.2.(5)~~ Maintenance projects – The maintenance, repair, improvement, or construction of any public or private highway, road, street, parkway, transit, aviation, or rail project within the ~~S~~state.
- ~~3.2.(6)~~ Safety Projects – The acquisition, improvement, or construction of rights-of-way, bridges, tunnels, railroad-highway crossings, drainage structures, signs, guardrails, or protective structures within this ~~S~~state.

~~3.SECTION-3-~~ Ineligible Projects

Qualified projects shall not include transportation facilities and other ~~I~~transportation ~~P~~projects that are restricted to private use.

RULE IV—Chapter 4: Disbursement of Moneys

~~4.SECTION-1-~~ Application process

- ~~4.1.(1)~~ All applications shall be submitted to the ~~D~~department. The application shall be completed as described in the application package. If the application received by the ~~D~~department is incomplete, ~~at that time~~ it shall be rejected and not considered for ~~F~~financial ~~A~~assistance until completed.
- ~~4.1.(2)~~ Application package – The application package shall contain instructions and guidelines for completing the application and such package shall be available upon request. The ~~P~~project ~~S~~sponsor shall be responsible for requesting an application package from the ~~D~~department.

~~4.SECTION-2-~~ Project ~~E~~evaluation

~~The overall objective of the project evaluation process is to provide a mechanism for the recommendation of potential transportation projects for financial assistance to the Commission.~~ The evaluation shall identify how ~~thesuch~~ project will benefit from ~~F~~financial ~~A~~assistance and the capability of the ~~P~~project ~~S~~sponsor to meet the terms for debt repayment. The ~~R~~review ~~C~~committee shall evaluate the projects, and provide documentation and a recommendation regarding each project ~~to the Commission or the CAB for aviation projects.~~

~~4.SECTION-3-~~ Evaluation ~~C~~riteria. ~~Project evaluations shall be accomplished by incorporating a rating scheme across specific criteria as described below:~~

- ~~4.3.(1)~~ ~~Project evaluations shall be accomplished by incorporating a rating scheme across specific criteria as described below:~~
- ~~(2)~~ Project Type – Project ~~S~~sponsors shall identify the type of project (road and highway, transit, aviation, and rail). This shall allow the commission to promote its objectives regarding types of ~~I~~transportation ~~P~~projects assisted by the CO SIB.
- ~~4.3.2(3)~~ Public/Private Partnerships – Project ~~S~~sponsors shall indicate whether it is a public or private entity. An evaluation on the basis of public/private partnerships shall allow the CO SIB to facilitate ~~I~~transportation ~~P~~projects that promote public purposes and feature some private financing.

- ~~4.3.3(4)~~ Financial Need – Project ~~S~~ponsors shall submit financial and technical information as requested in the application to help identify how sponsored ~~T~~ransportation ~~P~~rojects would benefit financially from ~~CO SIB F~~inancial ~~A~~ssistance.
- ~~(5)4.3.4~~ Repayment Source – The ~~P~~roject ~~S~~ponsor shall present a statement of revenue sources for the purpose of paying back loans, e.g., fees, HUTF revenues, local option sales taxes, passenger facility charges, and general fund property taxes. This criterion shall allow the sponsor to demonstrate its ability to repay the loan.
- ~~(6)4.3.5~~ Security Provisions – The ~~P~~roject ~~S~~ponsor shall be required to identify security provisions, e.g., HUTF revenues, property, bank reserves. This criterion shall allow a measure of the ~~P~~roject ~~S~~ponsor's potential to secure the loan.
- ~~(7)4.3.6~~ Financial Ratios – Project ~~S~~ponsors shall provide the appropriate information requested in the application regarding its current financial condition and substantiating documentation on the total cost of the project including additional funding sources that the sponsor may intend to use to complete the project. This criterion shall demonstrate the ~~P~~roject ~~S~~ponsor's commitment to its project and validate the cost of the project.
- ~~(8)4.3.7~~ Term of Financial Obligation –The ~~P~~roject ~~S~~ponsor shall indicate how long it needs to repay the loan up to ten years. This criterion shall illustrate the length of the CO SIB's financial obligation to a ~~P~~roject ~~S~~ponsor's ~~T~~ransportation ~~P~~roject, which is important to replenishing the Colorado ~~S~~tate ~~I~~nfrastructure ~~B~~ank's capital to accommodate future ~~F~~inancial ~~A~~ssistance to subsequent applicants.
- ~~(9)4.3.8~~ Project Viability – Project ~~S~~ponsors shall reveal any other options for funding the project. This criterion shall provide a measure of a project's viability without ~~F~~inancial ~~A~~ssistance from the CO SIB.
- ~~(10)4.3.9~~ Project Benefits – Project ~~S~~ponsors shall be required to briefly describe the benefits of its ~~T~~ransportation ~~P~~roject. As a counterpoint, ~~P~~roject ~~S~~ponsors shall also be required to describe the likely negative effects of NOT receiving ~~F~~inancial ~~A~~ssistance from the CO SIB. This criterion shall identify benefits gained, from the ~~T~~ransportation ~~P~~roject receiving ~~F~~inancial ~~A~~ssistance, to the transportation system.
- ~~(11)4.3.10~~ Project Planning – In order to demonstrate local commitment as part of a fiscally constrained plan, ~~P~~roject ~~S~~ponsors shall indicate if their project is in the TIP/STIP, eligible to be amended into the TIP/STIP, in another approved transportation planning document, or not in any plan.

~~SECTION 4.4~~ Review ~~C~~ommittee

- ~~(1)4.4.1~~ The ~~R~~eview ~~C~~ommittee shall consist of the following: one member of the Colorado ~~T~~ransportation ~~C~~ommission (or the CAB for aviation projects) who will chair the ~~R~~eview ~~C~~ommittee; the regional transportation director from the appropriate engineering region or the divisional director, from the aeronautics division, or transit and rail division as appropriate; the CDOT chief financial officer or manager of OFMB, and the CO SIB administrator.
- ~~(2)4.4.2~~ Duties of the ~~C~~ommittee

The ~~R~~eview ~~C~~ommittee shall evaluate loan applications based upon the responses to the criteria described in ~~section 3 of Rule 4.3IV~~ herein; examine loan documentation including the sponsor's financial statements to assure that a pending loan meets CO SIB rules standards and statutory guidelines; review the planning and engineering aspects of the loan project. Also,

develop procedures for executing loan contracts and, as required, reviewing and, if appropriate recommending amending the terms of already executed loan contracts, periodically review maturing loans and progress reports, and in case of Default, decide what collection efforts should be taken to restore past-due loans and other nonperforming loans to satisfactory condition.

~~(3)4.4.3~~ Evaluations from the Committee

The Review Committee shall submit its recommendation and final evaluation to the OFMB. Regardless of the merits of the project or its total cost, the Committee shall not recommend to the Commission or the CAB that it lend an applicant an amount that it considers beyond the applicant's capacity to repay even if it means the project cannot go forward at that time.

~~4.5~~ SECTION 5- Funding Procedure

The OFMB shall present the Review Committee's recommendation and evaluation to the Commission or the CAB for action, and the Commission or the CAB shall ~~set~~ approve the requested amount or recommend a different the maximum level of Financial Assistance for the project.

~~SECTION 4.6-~~ Loan Agreement

~~(4.6.1)~~ The OFMB shall negotiate the terms of a loan agreement with the approved Project Sponsor.

~~(4.6.2)~~ Fiduciary provisions – Unless specifically exempted by the Commission or the CAB, loan agreements for construction will specify that the funds will be disbursed in their entirety to a third party fiduciary or escrow agent with which the Project Sponsor has entered into an agreement. It shall be the responsibility of the ~~said agent~~ CO SIB Manager to validate requests for construction draws by the contractor and to provide periodic advances of fund to the contractor, as authorized by the terms of the construction contract. The third party administrator of the loan shall also provide periodic progress reports to the Committee. In instances where the loan is for the purchase of real property unrelated to a construction project or for the purchase of equipment, the third party will disburse the funds upon presentation of the requisite documentation demonstrating that the property or equipment procured is that for which the loan was approved and that the amounts paid match those presented in the loan application.

~~(3)4.6.3~~ Ongoing interest – The loan agreement shall specify that the Department retains a collateral interest in the item(s) procured with the loan proceeds and that the sponsor may not sell the items procured until such time as payment in full is made upon the loan.

~~RULE V-~~ Chapter 5: Interest Rates and Fees

~~5.(1)~~ Interest earnings and/or origination fees are required to re-capitalize the CO SIB and to offset a portion of the cost of its administration. There shall be no interest-free loans. However, interest payments may be delayed for up to two years, and all accrued interest can be capitalized into the principal outstanding balance. In addition, an origination fee to partially offset the cost of administering the CO SIB may be assessed. If such fee is assessed, the calculated amount can be added to principal to be repaid according to the agreed upon amortization schedule.

~~5.(2)~~ Interest Rate –The interest Rate for loans from the CO SIB shall be established and ~~by resolution,~~ adopted by the resolution of the Commission not later than June 30, of each year for loans applied for during the ensuing months of July; August; September; October; November; December. An interest Rate shall be established and ~~by resolution,~~ adopted by resolution of the

Commission not later than December 31, of each year for loans originating during the ensuing months of January; February; March; April; May; June.

~~5.3~~ Origination Fee – Pursuant to ~~§ 43-1-113.5(7), C.R.S.~~, a fee may be charged to reimburse the Department for reasonable expenses incurred while administering the CO SIB. Not later the June 30, of each year, the Commission shall determine whether or not to assess an origination fee for the ensuing fiscal year. If assessed, the origination fee schedule shall be as follows: a maximum of one percent for loan proceeds up to \$1 million, three-quarters of a percent for loan proceeds over \$1 million and up to \$2.5 million, one-half percent on the amount of loan proceeds over \$2.5 million and up to \$5 million, and one-quarter percent on the amount of loan proceeds over \$5 million.

RULE VI—Chapter 6: Repayment of Loans

6.SECTION-1. Loan Amortization

Financial Assistance in the form of a loan shall be amortized and simple interest shall be applied to the outstanding principal of each loan. An amortization schedule shall be attached to the loan agreement between the Department and the Project Sponsor.

6.SECTION-2. Payback Period

The payback period for Financial Assistance shall be not more than ten years. The term of a loan requested by a Project Sponsor shall be one of the criteria used for evaluation.

6.SECTION-3 Remedies in case of Default

~~6.3.1~~ If a recipient of Financial Assistance from the CO SIB fails to meet any of the terms or conditions of the loan agreement and fails to cure within thirty (30) days, the recipient shall be in Default, as defined in Rule ~~2.4H(5)~~. The Department shall notify the recipient of the condition. If the recipient fails to cure within thirty (30) days thereof, the Department may declare the entire principal amount of the loan then outstanding immediately due and payable, and bring a right of action against such recipient in district court to seek any applicable legal or equitable remedy, including reasonable attorney fees.

~~6.3.2~~ Default on loan repayment

If the recipient does not make a scheduled payment and fails to cure within thirty (30) days, the Department may assess a ~~LATE CHARGE~~late charge penalty or initiate debt collection efforts to recover the amounts due.

Chapter 7: Declaratory Orders

7.1 The Transportation Commission and the Department may entertain, at their sole discretion, petitions for declaratory orders pursuant to § 24-4-105(11), C.R.S. relating to the CO SIB.

Editor's Notes

History

~~Entire rule eff. 11/30/2009.~~



COLORADO
Department of Transportation

Notice of Proposed Rulemaking

**Transportation Commission
Rules for the Colorado State Infrastructure Bank
2 CCR 605-1**

Date & Time of Public Hearing: Friday, April 7, 2023, at 10:00 a.m.

I. Notice

As required by the State Administrative Procedure Act found at Section 24-4-103, C.R.S., the Transportation Commission gives notice of proposed rulemaking.

This proposed permanent rulemaking hearing is scheduled for **April 7, 2023, at 10:00 a.m.** and will only be conducted in a virtual setting. All interested and affected parties must register to attend the public hearing through the [registration link](#) provided.

How to Register for Hearing

You must click on the [registration link](#) to register for the hearing. When you register, you must provide your full name, email address, telephone number, and mailing address. You may also provide the name of the organization that you are representing. Finally, please indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the hearing.

The registration link for the hearing is also available on the Colorado Department of Transportation's website at <https://www.codot.gov/business/rules/proposed-rules>.

II. Subject

The purpose of these rules is to define eligibility requirements, prescribe the application and selection processes, and to detail certain financial terms for securing funding from the Colorado State Infrastructure Bank for public transportation projects. The proposed changes are the result of a mandatory rule review process. The proposed changes allow the Colorado Aeronautical Board (CAB) to approve aviation projects funded through the State Infrastructure Bank without requiring further approval from the Transportation Commission. This reduces bureaucracy and increases efficiency.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory Authority

The specific authority under which the Transportation Commission shall amend these rules is set forth in § 43-1-113.5(3), C.R.S.

IV. Copies of the Notice, Proposed Rules, and the Statement of Basis, Purpose & Authority

The notice of hearing, the proposed rules, and the proposed statement of basis, purpose and authority are available for review at CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

If there are changes made to the proposed rules prior to the hearing, the updated proposed rule will be available to the public and posted on CDOT's website by March 31, 2023.

Please note that the proposed rule changes being considered are subject to further changes and modifications after the public hearing and the deadline for the submission of written comments.

V. Opportunity to testify and submit written comments

CDOT strives to make the rulemaking process inclusive to all. Everyone will have the opportunity to testify and provide written comments concerning the proposed rule. Interested and affected parties are welcome to testify and submit written comments.

The format of the hearing will proceed as follows:

- The Hearing Officer opens the hearing and provides a brief introduction of the hearing procedures.
- CDOT staff will establish that the CDOT met all the procedural requirements of the Administrative Procedure Act.
- CDOT staff will present a summary of the proposed rules.
- Participants will have the opportunity to give testimony regarding the proposed rules.

Testimony

The testimony phase of each hearing will proceed as follows:

- The Hearing Officer will identify the participants who indicated that they plan to testify during the hearing based on the registration records.
- The Hearing Officer will then ask whether any additional participants wish to testify using the raised hand feature on Zoom.

To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Written Comments

All interested and affected parties are strongly encouraged to submit their written comments on the proposed changes by March 31, 2023 to dot_rules@state.co.us.

Additionally, prior to the hearing, we will post all written comments to CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

All written comments will be added to the official rulemaking record and may be subject to disclosure.

VI. Recording of the Hearings

The hearing will be recorded. After the hearing concludes, the recording will be available on CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

VII. Special Accommodations

If you need special accommodations, including language translation, please contact CDOT's Rules Advisor at dot_rules@state.co.us or 303.757.9441 at least two (2) weeks prior to the scheduled hearing date.

VIII. Contact Information

Please contact CDOT's Rules Advisor at dot_rules@state.co.us or 303.757.9441 if you have any questions.



About Secretary Griswold | Español

Colorado Register

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

March 10, 2023 - Volume 46 , No. 5

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Notices of proposed rulemaking

Department	Agency	Proposed rules	Hearing
Department of Revenue	Taxation Division	PROCEDURE AND ADMINISTRATION	04/06/2023 10:00 AM
Department of Revenue	Taxation Division	INCOME TAX	04/06/2023 10:00 AM
Department of Revenue	Taxation Division	INCOME TAX	04/06/2023 10:00 AM
Department of Revenue	Taxation Division	INCOME TAX	04/06/2023 10:00 AM
Department of Revenue	Taxation Division	INCOME TAX	04/06/2023 10:00 AM
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Department of Revenue	Taxation Division	TON MILE TAX AND PASSENGER MILE TAX	04/06/2023 10:00 AM
Department of Revenue	Taxation Division	SEVERANCE TAX	04/06/2023 10:00 AM
Department of Natural Resources	Oil and Gas Conservation Commission	PRACTICE AND PROCEDURE	06/14/2023 09:00 AM
Department of Transportation	Transportation Commission and Office of Transportation Safety	STATE HIGHWAY ACCESS CATEGORY ASSIGNMENT SCHEDULE	04/07/2023 10:30 AM
Department of Transportation	Transportation Commission (604, 605 Series)	COLORADO STATE INFRASTRUCTURE BANK	04/07/2023 10:00 AM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Department of Regulatory Agencies	Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Department of Regulatory Agencies	Public Utilities Commission	RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE	04/20/2023 11:30 AM
Department of Public Health and Environment	Air Quality Control Commission	REGULATION NUMBER 6 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES	05/16/2023 04:30 PM
Department of Public Health and Environment	Air Quality Control Commission	REGULATION NUMBER 8 CONTROL OF HAZARDOUS AIR POLLUTANTS	05/16/2023 04:30 PM
Department of Public Health and Environment	Disease Control and Public Health Response Division	EPIDEMIC AND COMMUNICABLE DISEASE CONTROL	04/19/2023 10:00 AM
Department of Public Health and Environment	Office Of Emergency Preparedness and Response	Preparations For A Bioterrorist Event, Pandemic Influenza, Or An Outbreak By A Novel And Highly Fatal Infectious Agent Or Biological Toxin	04/19/2023 10:00 AM
Department of Public Health and Environment	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	CHAPTER 2 - GENERAL LICENSURE STANDARDS	04/19/2023 10:00 AM

Department of Public Health and Environment	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	CHAPTER 4 - GENERAL HOSPITALS	04/19/2023 10:00 AM
Department of Human Services	Child Support Services (Volume 6)	RULE MANUAL VOLUME 6, CHILD SUPPORT SERVICES RULES	04/07/2023 08:30 AM
Department of Health Care Policy and Financing	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY	04/14/2023 09:00 AM
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	REFERRAL AND ASSESSMENT	04/07/2023 08:30 AM
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	REFERRAL AND ASSESSMENT	04/07/2023 08:30 AM
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	REFERRAL AND ASSESSMENT	04/07/2023 08:30 AM
Department of Human Services	Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND	04/07/2023 08:30 AM

Permanent Rules Adopted[Top](#)

Department	Agency	Rules adopted	AG opinion	Effective date
Department of Revenue	Division of Motor Vehicles	1 CCR 204-10 VEHICLE SERVICES SECTION (DOCX)	02/16/2023	04/03/2023
Department of Revenue	Division of Motor Vehicles	1 CCR 204-30 DRIVER'S LICENSE- DRIVER CONTROL (DOCX)	02/16/2023	04/03/2023
Department of Revenue	Division of Motor Vehicles	1 CCR 204-30 DRIVER'S LICENSE- DRIVER CONTROL (DOCX)	02/16/2023	04/03/2023
Department of Regulatory Agencies	Division of Insurance	3 CCR 702-4 Series 4-6 LIFE, ACCIDENT AND HEALTH, Series 4-6 Group Health Insurance, Small Group Health Plans (DOC)	02/24/2023	04/15/2023
Department of Regulatory Agencies	Division of Securities	3 CCR 704-1 RULES UNDER THE COLORADO SECURITIES ACT (DOCX)	02/21/2023	03/30/2023
Department of Regulatory Agencies	Public Utilities Commission	4 CCR 723-2 RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES (DOC)	02/16/2023	03/30/2023
Department of Labor and Employment	Division of Workers' Compensation	7 CCR 1101-3 WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES (DOCX)	02/22/2023	03/30/2023
Department of State	Secretary of State	8 CCR 1505-2 BINGO AND RAFFLES GAMES 1 (DOCX) 8 CCR 1505-2 BINGO AND RAFFLES GAMES 2 (PDF)	02/28/2023	03/31/2023
Department of Human Services	Income Maintenance (Volume 3)	9 CCR 2503-3 COLORADO REFUGEE SERVICES PROGRAM (CRSP) (DOCX)	02/22/2023	03/30/2023
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	12 CCR 2509-8 CHILD CARE FACILITY LICENSING (DOCX)	02/22/2023	04/01/2023

Emergency Rules Adopted

Department	Agency	Rules adopted	Justification	AG opinion	Effective date	Expiration date
Department of Human Services	Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	12 CCR 2516-1 RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND (DOCX)	EmergencyJustificationPathAttach2023-00084.pdf	02/22/2023	02/03/2023	06/03/2023

Calendar of Hearings

Agency	Rule	Hearing
Taxation Division	PROCEDURE AND ADMINISTRATION	04/06/2023 10:00 AM
Taxation Division	INCOME TAX	04/06/2023 10:00 AM
Taxation Division	INCOME TAX	04/06/2023 10:00 AM
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Taxation Division	SALES AND USE TAX	04/06/2023 10:00 AM
Taxation Division	SALES AND USE TAX	04/06/2023 10:00 AM
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Taxation Division	SALES AND USE TAX	04/06/2023 10:00 AM
Taxation Division	TON MILE TAX AND PASSENGER MILE TAX	04/06/2023 10:00 AM
Taxation Division	SEVERANCE TAX	04/06/2023 10:00

		AM
Oil and Gas Conservation Commission	PRACTICE AND PROCEDURE	06/14/2023 09:00 AM
Transportation Commission and Office of Transportation Safety	STATE HIGHWAY ACCESS CATEGORY ASSIGNMENT SCHEDULE	04/07/2023 10:30 AM
Transportation Commission (604, 605 Series)	COLORADO STATE INFRASTRUCTURE BANK	04/07/2023 10:00 AM
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	03/30/2023 11:00 AM
Public Utilities Commission	RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE	04/20/2023 11:30 AM
Air Quality Control Commission	REGULATION NUMBER 6 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES	05/16/2023 04:30 PM
Air Quality Control Commission	REGULATION NUMBER 8 CONTROL OF HAZARDOUS AIR POLLUTANTS	05/16/2023 04:30 PM
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Office Of Emergency Preparedness and Response	Preparations For A Bioterrorist Event, Pandemic Influenza, Or An Outbreak By A Novel And Highly Fatal Infectious Agent Or Biological Toxin	04/19/2023 10:00 AM
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Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	CHAPTER 4 - GENERAL HOSPITALS	04/19/2023 10:00 AM
Child Support Services (Volume 6)	RULE MANUAL VOLUME 6, CHILD SUPPORT SERVICES RULES	04/07/2023 08:30 AM
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Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	REFERRAL AND ASSESSMENT	04/07/2023 08:30 AM
Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND	04/07/2023 08:30 AM

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[Terms & conditions](#) | [Browser compatibility](#)

Exhibit 3

 **Home**

My Proposed Rules

Submit New Rule

 **Reports**

 **My Account**

 **Help**

Submission Accepted

Rule Submitted

Your proposed rules or amendments to rules have been successfully submitted to the Department of Regulatory Agencies.

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. You will be copied on all stakeholder requests for a cost-benefit analysis and DORA staff will contact you to discuss any public requests.

You may log back in to this system at any time to check on the current status of this rule. An email notification containing further instructions will be sent if a cost-benefit analysis is required as a result of your submission.

Colorado Department of Regulatory Agencies

February 28, 2023 09:31 am
Calling Procedure:
SB121_Submit_Rule.
Rule_Submitted
Version: 1.0

STATE OF
COLORADO

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

Proposed Rule Submitted - Colorado State Infrastructure Bank Rules -

1 message

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

Tue, Feb 28, 2023 at 9:31 AM

To: sari.weichbrodt@state.co.us

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

Department: Department of Transportation
Rulemaking Agency: Transportation Commission of Colorado
Rule ID: 9706
Title or Subject: Proposed Changes to Colorado State Infrastructure Bank Rules
Submitted by: Sari Weichbrodt
Date Submitted: 02/28/2023

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 Wednesday, March 15th, 2023 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.

STATE OF
COLORADO

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

3C

DORA Regulatory Notice: Transportation Commission of Colorado - Multiple Rules -

1 message

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

Tue, Feb 28, 2023 at 5:30 PM

To: sari.weichbrodt@state.co.us

Dear Stakeholder:

The Department of Transportation - Transportation Commission of Colorado will be holding a rulemaking hearing on Friday, April 7th, 2023, 10:00 am on rules regarding [Colorado State Infrastructure Bank Rules](#). The hearing will be held at: [2829 W Howard Pl, Denver CO 80204](#).

The purpose of this rulemaking is:

The purpose of these Rules is to govern the process for the Colorado State Infrastructure Bank to provide funding for eligible transportation projects. The proposed amendments will add a role for the Colorado Aeronautical Board to evaluate and approve aviation projects and make other minor changes to modernize the rules.

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 Wednesday, March 15th, 2023.

You may also [submit comments directly to the rulemaking agency](#) for the agency's consideration during the upcoming rulemaking hearing.

The Department of Transportation - Transportation Commission of Colorado will be holding a rulemaking hearing on Friday, April 7th, 2023, 10:30 am on rules regarding [Access Category Assignment Schedule](#). The hearing will be held at: [2829 W Howard Pl, Denver CO 80204](#).

The purpose of this rulemaking is:

The purpose of the rulemaking is the update the Category Assignment Schedule to reflect current ownership and classification of state highway segments.

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 Wednesday, March 15th, 2023.

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.

Brian Tobias
Director
Colorado 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

3D

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

No Public Cost-Benefit Analysis Request for Rule - Colorado State Infrastructure Bank Rules -

1 message

DORA_OPR_Website@state.co.us <DORA_OPR_Website@state.co.us>
To: sari.weichbrodt@state.co.us

Sun, Mar 19, 2023 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 of Colorado
Rule ID: 9706
Title or Subject: Proposed Changes to Colorado State Infrastructure Bank Rules
Submitted by: Sari Weichbrodt
Date Submitted: 02/28/2023
Deadline for Public Cost-Benefit Analysis Request: March 15, 2023 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

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- Invalidate Cloudflare

Sari Weichbrodt

April 7, 2023	On or after 10:30 a.m.	Virtual Only	Register for Rulemaking Hearing
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4

Colorado State Infrastructure Bank Rules

Number	2 CCR 605-1
Contact	Sari Weichbrodt
Hearing Notice	Notice of 2 CCR 605-1 Rulemaking Hearing
Statement of Basis and Purpose	2 CCR 605-1 Statement
Proposed Rule	Proposed Rule Changes 2 CCR 605-1
Virtual Hearing Date & Time	Friday, April 7, 2023 at 10:00 a.m. MT
Virtual Hearing Registration	Link to register for the hearing
Hearing Exhibits	
Recording of Rulemaking Hearing	
Please submit written questions or comments to:	dot_rules@state.co.us
Written Comments	Open through 5:00 p.m. on March 31, 2023

Virtual Public Hearing

Date	Time	Location	Virtual Registration
April 7, 2023	10:00 a.m. MT	Virtual Only	Register for 2 CCR 605-1 Hearing



Exhibit 5



COLORADO
Department of Transportation

2829 W. Howard Place
Denver, CO 80204-2305

**Transportation Commission of Colorado
Colorado State Infrastructure Bank Rules
2 CCR 605-1**

Statement of Basis and Purpose and Statutory Authority

The rules regarding the Colorado State Infrastructure Bank (SIB Rules) are found at 2 CCR 605-1.

The specific authority under which the Transportation Commission of Colorado (Commission) shall establish these rules is set forth in Section 43-1-113.5, C.R.S.

The basis of the SIB Rules is to establish and maintain the processes to define eligibility requirements, and detail the application and selection processes and terms for securing financial assistance from the Colorado State Infrastructure Bank for public transportation projects in Colorado.

The Commission seeks to amend the SIB Rules to:

- Add a definition for the Colorado Aeronautical Board (CAB) in Rule 2.1;
- In order to streamline the approval process for aviation projects and reduce bureaucracy, add “or the CAB for aviation projects” to Rule 4.2 and Rule 4.4.1 to allow a CAB member to chair the Review Committee for aviation projects and to further allow the CAB to act directly on the recommendation of the Review Committee for aviation projects;
- Add “or the CAB” in Rule 4.5 and Rule 4.6.2. Notably, the Commission alone retains the authority and responsibility to establish and adopt the interest rate and fees for SIB loans in Chapter 5;
- Add passenger facility charges as revenue sources to be included in evaluating a sponsor’s ability to repay the loan in Rule 4.3.4
- Add the ability for the Commission and/or the Colorado Department of Transportation to entertain petitions for declaratory orders in Chapter 7; and
- Make non-substantive formatting and clarifying changes to make the rule easier to understand.

Exhibit 6

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Petitions for Rulemaking

You also have the right to petition for the issuance, amendment, or repeal of a rule. This provides you the opportunity to identify problematic rules and to help us improve efficiency. The "Petition for Rulemaking" must be submitted directly to Sari Weichbrodt via email at dot_rules@state.co.us and is open to public inspection. Action on a petition is at our discretion; but when we undertake rulemaking on a matter, all related petitions for the issuance, amendment, or repeal of rules must be considered and acted upon in the same proceeding.

Final Rules

The rules and regulations adopted and promulgated by CDOT are available on its website, codot.gov/business/rules and on the Secretary of State's website <http://www.sos.state.co.us>. The Secretary of State compiles and publishes the administrative rules in the Code of Colorado Regulations. Notices of rule-making, proposed rules, new and amended rules, and Attorney General rules opinions are published twice monthly in the companion publication, the Colorado Register. The official Code and Register are also published on the Secretary of State website.

(DORA) provides notice of statewide rule makings by topic.

[Sign up for DORA notices.](#)

[Request a Cost-Benefit Analysis](#)

Rule Number	Rule Contact	Rule Title	Proposed Rules	Deadline for Comments	Public Comments	Stakeholder Workshop	Sign Up for Rulemaking Updates
2 CCR 605-1	Sari Weichbrodt	State Infrastructure Bank Rules	Proposed Changes to 2 CCR 605-1			Friday, February 10th at 10:00 a.m.	
2 CCR 601-1A	Sari Weichbrodt Dan Roussin	State Highway Access Category Assignment Schedule	Proposed Changes to Permanent Rules - Draft January 2023				
2 CCR 601-22	Sari Weichbrodt Rebecca White	Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions					

STATE OF
COLORADO

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

Invitation to Stakeholder Meeting for 2 CCR 605-1 (State Infrastructure Bank Rules)

8 messages

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

Mon, Jan 30, 2023 at 12:25 PM

To: "Long - CDOT, Ryan" <ryan.c.long@state.co.us>, David Ulane - CDOT <DAVID.ULANE@state.co.us>

Bcc: financedir@cityofcentral.co, teisenman@parkco.us, gphillips@springsgov.com, mfronapfel@centennialairport.com, apadalecki@gjairport.com, Kenneth Maenpa <kenny@tellurideairport.com>, skyblue07@comcast.net, Kathy Young <Kathy.Young@coag.gov>

Hello-

The Colorado Department of Transportation has recently conducted a mandatory review of 2 CCR 605-1 (the State Infrastructure Bank rules) and would like to recommend changes to the Transportation Commission. These rules were last updated in 2009. I have attached a Word version of our proposed changes in redline as well as a clean version. Most of the red relates to updated formatting (including changes proposed to comply with new state accessibility requirements). The key substantive changes relate to streamlining the process for approval of eligible aviation projects, allowing the Colorado Aeronautical Board (CAB) to approve projects rather than requiring Transportation Commission approval.

As stakeholders affected by the State Infrastructure Bank rules, we invite you to attend a stakeholder meeting on Friday, February 10th, 2023 from 10-11 a.m. on Google Meet. We will provide detailed information regarding the changes we wish to propose to the Transportation Commission and our anticipated rulemaking process. We are very interested in your feedback on the proposed changes. If you are unable to attend the meeting, please feel free to respond to this email with comments. Should the Transportation Commission authorize formal rulemaking, you will be included on all rulemaking notifications and will have an additional opportunity to provide formal comments or testimony during the rulemaking process.

You may access the meeting through one of the options below:

State Infrastructure Bank rule stakeholder meeting

Friday, February 10 · 10:00 – 11:00am

Google Meet joining info

Video call link: <https://meet.google.com/yxt-hmaq-rwh>

Or dial: (US) +1 252-528-6354 PIN: 486 698 865#

More phone numbers: <https://tel.meet/yxt-hmaq-rwh?pin=4686261819177>

Kind regards,

Sari

Sari Weichbrodt

Rules, Policies, and Procedures Advisor

**COLORADO**

Department of Transportation

Office of Policy and Government Relations

P: 303.757.9441 C: 773.597.8879

2829 W. Howard Place, Denver, CO 80204

sari.weichbrodt@state.co.us | www.codot.gov | www.cotrip.org

2 attachments

**2023 Rule Redline for stakeholder meeting.docx**

40K

**2023 Rule Clean for stakeholder meeting.docx**

32K

Exhibit 7

STATE OF
COLORADO

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

Notice of Rulemaking (2 CCR 605-1, Colorado State Infrastructure Bank Rules)

1 message

CDOT Rules <cdot_rules@state.co.us>

Tue, Feb 28, 2023 at 10:19 AM

To: David Ulane - CDOT <david.ulane@state.co.us>, Brook Howard - CDOT <brook.howard@state.co.us>, Sari Weichbrodt - CDOT <sari.weichbrodt@state.co.us>

Hello Stakeholder:

This email serves as notification that the Colorado Department of Transportation (CDOT) filed a Notice of Proposed Rulemaking with the Colorado Secretary of State on behalf of the Transportation Commission of Colorado to consider changes to the Colorado State Infrastructure Bank Rules, 2 CCR 605-1. This proposed rulemaking results from a mandatory rule review conducted pursuant to CDOT's 2023 regulatory agenda.

A proposed permanent rulemaking hearing will be held virtually via Zoom on **April 7, 2023, at 10:00 a.m.** These rules govern the process for applying for and managing State Infrastructure Bank (SIB) funds for eligible public projects. The rules were last updated in 2009 and the majority of the changes are non-substantive. We are proposing a substantive update to allow a role for the Colorado Aeronautical Board (CAB) to approve eligible aviation projects for SIB funds. This change will streamline the approval process for aviation projects and reduce bureaucracy. I have attached the notice of the hearing, the statement of basis, and the redline version of the proposed rule revisions for your reference in a single PDF document. A full description of the proposed changes can be found in the statement of basis.

The rulemaking hearing will only be conducted in a virtual setting. All interested and affected parties are urged to attend this public hearing by registering for the webinar [here](#). After registering, you will receive a confirmation email containing information about joining the webinar. You may also find the registration link for the virtual rulemaking hearing on [CDOT's website](#).

Please submit all written comments to dot_rules@state.co.us on or before **5:00 p.m. on March 31, 2023**. All comments received from stakeholders will be posted on [CDOT's Proposed Rules and Hearing Dates Webpage](#).

Please feel free to contact me at dot_rules@state.co.us if you have any questions or would like to be removed from our stakeholder list.

Thank you for participating in the rulemaking process.

Kind regards,
Sari

**CombinedNOHStmtRule2CCR605-1.pdf**

378K

Exhibit 8

STATE OF
COLORADO

Weichbrodt - CDOT, Sari <sari.weichbrodt@state.co.us>

Notice of Rulemaking (2 CCR 605-1, Colorado State Infrastructure Bank Rules)

1 message

CDOT Rules <cdot_rules@state.co.us>

Tue, Feb 28, 2023 at 10:20 AM

To: Sari Weichbrodt - CDOT <sari.weichbrodt@state.co.us>

Hello Stakeholder:

This email serves as notification that the Colorado Department of Transportation (CDOT) filed a Notice of Proposed Rulemaking with the Colorado Secretary of State on behalf of the Transportation Commission of Colorado to consider changes to the Colorado State Infrastructure Bank Rules, 2 CCR 605-1. This proposed rulemaking results from a mandatory rule review conducted pursuant to CDOT's 2023 regulatory agenda.

A proposed permanent rulemaking hearing will be held virtually via Zoom on **April 7, 2023, at 10:00 a.m.** These rules govern the process for applying for and managing State Infrastructure Bank (SIB) funds for eligible public projects. The rules were last updated in 2009 and the majority of the changes are non-substantive. We are proposing a substantive update to allow a role for the Colorado Aeronautical Board (CAB) to approve eligible aviation projects for SIB funds. This change will streamline the approval process for aviation projects and reduce bureaucracy. I have attached the notice of the hearing, the statement of basis, and the redline version of the proposed rule revisions for your reference in a single PDF document. A full description of the proposed changes can be found in the statement of basis.

The rulemaking hearing will only be conducted in a virtual setting. All interested and affected parties are urged to attend this public hearing by registering for the webinar [here](#). After registering, you will receive a confirmation email containing information about joining the webinar. You may also find the registration link for the virtual rulemaking hearing on [CDOT's website](#).

Please submit all written comments to dot_rules@state.co.us on or before 5:00 p.m. on March 31, 2023. All comments received from stakeholders will be posted on [CDOT's Proposed Rules and Hearing Dates Webpage](#).

You have received this notification because you previously indicated that you wished to be notified of rulemaking by the Colorado Department of Transportation or the Transportation Commission. Please feel free to contact me at dot_rules@state.co.us if you have any questions or would like to be removed from our interested parties list.

Thank you for participating in the rulemaking process.

Kind regards,
Sari

CombinedNOHStmtRule2CCR605-1.pdf
378K

Exhibit 9



COLORADO
Department of Transportation

2829 W. Howard Place
Denver, CO 80204-2305

MEMORANDUM

To: Office of Policy and Government Relations

From: Sari Weichbrodt, Rules Advisor

Date: February 28, 2023

RE: **Permanent Records Retention of Rule File regarding 2 CCR 605-1: "Rules and Regulations for the Colorado State Infrastructure Bank"**

Please establish an official rule making file for the Rule Making Process and Hearing pursuant to § 24-4-103(8.1), C.R.S. which requires that "an 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.

Sari Weichbrodt
303.757.9441
sari.weichbrodt@state.co.us



Exhibit 10

DEPARTMENT OF TRANSPORTATION

Transportation Commission

RULES AND REGULATIONS BY THE COLORADO DEPARTMENT OF TRANSPORTATION FOR THE COLORADO STATE INFRASTRUCTURE BANK

2 CCR 605-1

Chapter 1: General Provisions

1.1 Statutory Authority

The statutory authority for the Transportation Commission of Colorado (Commission) to adopt these rules is found in section 43-1-113.5(3), C.R.S.

1.2 Purpose

The purpose of these rules is to define eligibility requirements, prescribe the application and selection processes, and to detail certain terms for securing Financial Assistance, for public Transportation Projects within the State, from the CO SIB.

1.3 Applicability

These rules shall be applicable to any public or private Project Sponsor of public Transportation Projects within the State.

Chapter 2: Definitions

The following definitions shall apply to terms used in the Rules.

- 2.1 "CAB" means the Colorado Aeronautical Board, a statutorily created board appointed by the Governor and approved by the Senate.
- 2.2 "CO SIB" means the Colorado State Infrastructure Bank.
- 2.3 "Commission" means the transportation commission of Colorado – the State's transportation decision-making body.
- 2.4 "Default" means the condition of a loan where the recipient has failed to meet a contractual obligation and failed to cure within thirty (30) days, including but not limited to: failure to make the loan payment; failure to use loan proceeds for stated purpose; failure to submit progress reports.
- 2.5 "Department" means the Colorado Department of Transportation.
- 2.6 "Federal-aid program" means any funds authorized by the United States Congress to assist states in providing for transportation.
- 2.7 "Financial Assistance" means a loan or any credit assistance that the COSIB is authorized to offer.
- 2.8 "Interest Rate" means the semi-annual interest rate approved by the Commission.

- 2.9 “OFMB” means the Colorado Department of Transportation’s Office of Financial Management and Budget.
- 2.10 “Political Subdivision” means a county, municipality, Service Authority, or special district authorized to enter into intergovernmental agreements pursuant to § 29-1-203(2), C.R.S.
- 2.11 “Project Sponsor” means the entity or organization that is requesting Financial Assistance.
- 2.12 “Public-Private Initiative” means a nontraditional arrangement between the Department and one or more private or public entities as defined in §43-1-1201(3), C.R.S.
- 2.13 “Review Committee” or “Committee” means the SIB loan review committee as described in Rule 4.4.1) herein.
- 2.14 “State” means the state of Colorado.
- 2.15 “State Agency” means every entity in the executive branch of the State’s government including boards, commissions, departments, divisions, and offices.
- 2.16 “TIP/STIP” means the metropolitan planning organization’s multiyear Transportation Improvement Program/Statewide Transportation Improvement Program.
- 2.17 “Transportation Project” means the planned undertaking of an endeavor for the purpose of conveying passengers or goods.

Chapter 3: Eligibility Requirements for Financial Assistance

3.1 Eligible Project Sponsors

Entities eligible to receive Financial Assistance from the CO SIB shall include public entities such as Political Subdivisions and State Agencies. Also, private companies and non-profit organizations shall be eligible either with a local government partner, or under the authority of a Public-Private Initiative.

3.2 Eligible projects

- 3.2.1 Only qualified projects shall be eligible for Financial Assistance. Qualified projects shall include any Commission-authorized project, right-of-way acquisition, federal-aid project, maintenance project, or safety project.
- 3.2.2 Commission-authorized projects – Any public or private Transportation Project as authorized by the Commission including, but not limited to planning, environmental impact studies, feasibility studies, engineering, construction, reconstruction, resurfacing, restoring, rehabilitation, or replacement of a public or private transportation facility within the State.
- 3.2.3 Right-of-way acquisitions – The acquisition of real or personal property, or interests therein, for a public or private transportation facility within the State.
- 3.2.4 Federal projects – Any highway, transit, aviation, rail, or other Transportation Project within the State that is eligible for financing or Financial Assistance under State or federal law.
- 3.2.5 Maintenance projects – The maintenance, repair, improvement, or construction of any public or private highway, road, street, parkway, transit, aviation, or rail project within the State.

- 3.2.6 Safety Projects – The acquisition, improvement, or construction of rights-of-way, bridges, tunnels, railroad-highway crossings, drainage structures, signs, guardrails, or protective structures within this State.

3.3 Ineligible Projects

Qualified projects shall not include transportation facilities and other Transportation Projects that are restricted to private use.

Chapter 4: Disbursement of Moneys

4.1 Application process

- 4.1.1 All applications shall be submitted to the Department. The application shall be completed as described in the application package. If the application received by the Department is incomplete, it shall be rejected and not considered for Financial Assistance until completed.

- 4.1.2 Application package – The application package shall contain instructions and guidelines for completing the application and such package shall be available upon request. The Project Sponsor shall be responsible for requesting an application package from the Department.

4.2 Project Evaluation

The evaluation shall identify how the project will benefit from Financial Assistance and the capability of the Project Sponsor to meet the terms for debt repayment. The Review Committee shall evaluate the projects, and provide documentation and a recommendation regarding each project to the Commission or the CAB for aviation projects.

- 4.3 Evaluation Criteria. Project evaluations shall be accomplished by incorporating a rating scheme across specific criteria as described below:

- 4.3.1 Project Type – Project Sponsors shall identify the type of project (road and highway, transit, aviation, and rail). This shall allow the commission to promote its objectives regarding types of Transportation Projects assisted by the CO SIB.
- 4.3.2 Public/Private Partnerships – Project Sponsors shall indicate whether it is a public or private entity. An evaluation on the basis of public/private partnerships shall allow the CO SIB to facilitate Transportation Projects that promote public purposes and feature some private financing.
- 4.3.3 Financial Need – Project Sponsors shall submit financial and technical information as requested in the application to help identify how sponsored Transportation Projects would benefit financially from CO SIB Financial Assistance.
- 4.3.4 Repayment Source – The Project Sponsor shall present a statement of revenue sources for the purpose of paying back loans, e.g., fees, HUTF revenues, local option sales taxes, passenger facility charges, and general fund property taxes. This criterion shall allow the sponsor to demonstrate its ability to repay the loan.
- 4.3.5 Security Provisions – The Project Sponsor shall be required to identify security provisions, e.g., HUTF revenues, property, bank reserves. This criterion shall allow a measure of the Project Sponsor's potential to secure the loan.

- 4.3.6 Financial Ratios – Project Sponsors shall provide the appropriate information requested in the application regarding its current financial condition and substantiating documentation on the total cost of the project including additional funding sources that the sponsor may intend to use to complete the project. This criterion shall demonstrate the Project Sponsor’s commitment to its project and validate the cost of the project.
- 4.3.7 Term of Financial Obligation –The Project Sponsor shall indicate how long it needs to repay the loan up to ten years. This criterion shall illustrate the length of the CO SIB’s financial obligation to a Project Sponsor’s Transportation Project, which is important to replenishing the Colorado State Infrastructure Bank’s capital to accommodate future Financial Assistance to subsequent applicants.
- 4.3.8 Project Viability – Project Sponsors shall reveal any other options for funding the project. This criterion shall provide a measure of a project’s viability without Financial Assistance from the CO SIB.
- 4.3.9 Project Benefits – Project Sponsors shall be required to briefly describe the benefits of its Transportation Project. As a counterpoint, Project Sponsors shall also be required to describe the likely negative effects of NOT receiving Financial Assistance from the CO SIB. This criterion shall identify benefits gained, from the Transportation Project receiving Financial Assistance, to the transportation system.
- 4.3.10 Project Planning – In order to demonstrate local commitment as part of a fiscally constrained plan, Project Sponsors shall indicate if their project is in the TIP/STIP, eligible to be amended into the TIP/STIP, in another approved transportation planning document, or not in any plan.

4.4 Review Committee

- 4.4.1 The Review Committee shall consist of the following: one member of the Transportation Commission (or the CAB for aviation projects) who will chair the Review Committee; the regional transportation director from the appropriate engineering region or the divisional director from the aeronautics division, or transit and rail division as appropriate; the CDOT chief financial officer or manager of OFMB, and the CO SIB administrator.

4.4.2 Duties of the Committee

The Review Committee shall evaluate loan applications based upon the responses to the criteria described in Rule 4.3 herein; examine loan documentation including the sponsor’s financial statements to assure that a pending loan meets CO SIB rules standards and statutory guidelines; review the planning and engineering aspects of the loan project. Also, develop procedures for executing loan contracts and, as required, review and, if appropriate recommend amending the terms of already executed loan contracts, periodically review maturing loans and progress reports, and in case of Default, decide what collection efforts should be taken to restore past-due loans and other nonperforming loans to satisfactory condition.

4.4.3 Evaluations from the Committee

The Review Committee shall submit its recommendation and final evaluation to the OFMB. Regardless of the merits of the project or its total cost, the Committee shall not recommend to the Commission or the CAB that it lend an applicant an amount that it considers beyond the applicant’s capacity to repay even if it means the project cannot go forward at that time.

4.5 Funding Procedure

The OFMB shall present the Review Committee's recommendation and evaluation to the Commission or the CAB for action, and the Commission or the CAB shall approve the requested amount or recommend a different maximum level of Financial Assistance for the project.

4.6 Loan Agreement

4.6.1 The OFMB shall negotiate the terms of a loan agreement with the approved Project Sponsor.

4.6.2 Fiduciary provisions – Unless specifically exempted by the Commission or the CAB, loan agreements for construction will specify that the funds will be disbursed in their entirety to a third party fiduciary or escrow agent with which the Project Sponsor has entered into an agreement. It shall be the responsibility of the CO SIB Manager to validate requests for construction draws by the contractor and to provide periodic advances of fund to the contractor, as authorized by the terms of the construction contract. The third party administrator of the loan shall also provide periodic progress reports to the Committee. In instances where the loan is for the purchase of real property unrelated to a construction project or for the purchase of equipment, the third party will disburse the funds upon presentation of the requisite documentation demonstrating that the property or equipment procured is that for which the loan was approved and that the amounts paid match those presented in the loan application.

4.6.3 Ongoing interest – The loan agreement shall specify that the Department retains a collateral interest in the item(s) procured with the loan proceeds and that the sponsor may not sell the items procured until such time as payment in full is made upon the loan.

Chapter 5: Interest Rates and Fees

5.1 Interest earnings and/or origination fees are required to re-capitalize the CO SIB and to offset a portion of the cost of its administration. There shall be no interest-free loans. However, interest payments may be delayed for up to two years, and all accrued interest can be capitalized into the principal outstanding balance. In addition, an origination fee to partially offset the cost of administering the CO SIB may be assessed. If such fee is assessed, the calculated amount can be added to principal to be repaid according to the agreed upon amortization schedule.

5.2 Interest Rate –The Interest Rate for loans from the CO SIB shall be established and adopted by the resolution of the Commission not later than June 30 of each year for loans applied for during the ensuing months of July; August; September; October; November; December. An Interest Rate shall be established and adopted by resolution of the Commission not later than December 31 of each year for loans originating during the ensuing months of January; February; March; April; May; June.

5.3 Origination Fee – Pursuant to § 43-1-113.5(7), C.R.S., a fee may be charged to reimburse the Department for reasonable expenses incurred while administering the CO SIB. Not later the June 30 of each year, the Commission shall determine whether or not to assess an origination fee for the ensuing fiscal year. If assessed, the origination fee schedule shall be as follows: a maximum of one percent for loan proceeds up to \$1 million, three-quarters of a percent for loan proceeds over \$1 million and up to \$2.5 million, one-half percent on the amount of loan proceeds over \$2.5 million and up to \$5 million, and one-quarter percent on the amount of loan proceeds over \$5 million.

Chapter 6: Repayment of Loans

6.1 Loan Amortization

Financial Assistance in the form of a loan shall be amortized and simple interest shall be applied to the outstanding principal of each loan. An amortization schedule shall be attached to the loan agreement between the Department and the Project Sponsor.

6.2 Payback Period

The payback period for Financial Assistance shall be not more than ten years. The term of a loan requested by a Project Sponsor shall be one of the criteria used for evaluation.

6.3 Remedies in case of Default

6.3.1 If a recipient of Financial Assistance from the CO SIB fails to meet any of the terms or conditions of the loan agreement and fails to cure within thirty (30) days, the recipient shall be in Default, as defined in Rule 2.4. The Department shall notify the recipient of the condition. If the recipient fails to cure within thirty (30) days thereof, the Department may declare the entire principal amount of the loan then outstanding immediately due and payable, and bring a right of action against such recipient in district court to seek any applicable legal or equitable remedy, including reasonable attorney fees.

6.3.2 Default on loan repayment

If the recipient does not make a scheduled payment and fails to cure within thirty (30) days, the Department may assess a late charge penalty or initiate debt collection efforts to recover the amounts due.

Chapter 7: Declaratory Orders

7.1 The Transportation Commission and the Department may entertain, at their sole discretion, petitions for declaratory orders pursuant to § 24-4-105(11), C.R.S. relating to the CO SIB.
