



COLORADO
Department of Transportation

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October 19, 2021

MISCELLANEOUS RULEMAKING PUBLIC NOTICE

**Transportation Commission of Colorado
Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions
2 CCR 601-22**

Code of Colorado Regulations eDocket Tracking Number: [2021-00508](#)

On August 13, 2021, the Colorado Department of Transportation (CDOT) on behalf of the Transportation Commission of Colorado (Commission) filed a Notice of Proposed Rulemaking with the Colorado Secretary of State and the Department of Regulatory Agencies.

When that filing was published, the Commission released [a draft](#) of the proposed edits to 2 CCR 601-22: the Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions. Using the written comments and public testimony that have been received, the Commission has decided to release [a revised draft of the proposed rule revisions](#) that reflects input from the public. The Commission, through CDOT staff, has also posted two other informational documents. The first document is a [Mitigation Policy Framework](#) document and the second is a [Technical Modeling Support Memo](#).

To allow for public comment on the revised draft, a tenth and final public hearing will occur on November 10, 2021, at 3:00 p.m. The hearing will be virtual. The link to register for this hearing can be found [here](#).

The Commission initially noticed the deadline for written public comments to be October 15, 2021, by midnight. Based on written comments and public testimony that has been received, the Commission decided to extend the time period to submit written comments on the proposed rulemaking, and specifically the revised draft, until November 18, 2021, by noon MST (12:00 p.m.).

Below is a list of the substantive changes, by section, that have been made to the initial draft released on August 13, 2021, and [are included in the revised draft](#) being released on October 19, 2021:

Preamble:

- New language was added to expand on the process for developing mitigations at the time a project is submitted into a plan.
 - Specific examples of interchange access requests and the incorporation of induced demand analysis.
- Added a list of “core principles” for the selection and delivery of mitigations:
 - Valuing benefits to Disproportionately Impacted Communities;
 - Geographic nexus with impacts;
 - Holistic air quality planning;
 - Verification;
 - and Reasonable scale.



Definitions:

- GHG has been clarified by using the statutory definition. This definition identifies more gases but those additions do not affect modeling outcomes
- Since specific Baseline numbers are no longer in the table, the definition was changed with an explanation of how the baseline should be calculated
- Approved Air Quality Model has been clarified to specify EPA's MOVES model or its successor
- Regionally Significant has been further defined to allow modifications with the approval of the Interagency Consultation Team

Section 4:

- Equity and Disproportionately Impacted (DI) Communities
 - Numerous comments were received that noted, historically, DI communities have been impacted unequally by transportation project construction.
 - The rule (and associated PDs on mitigations) will require that significant projects be mitigated within the same region as the project
 - Future versions of CDOT plans will contain analysis of DI communities.
 - These changes will become part of a larger transportation equity framework once CDOT's Environmental Justice branch is established.
- Added new language to better incorporate the involvement of disproportionately impacted communities in the planning process.
 - Providing translation of documents into languages spoken in various communities
 - Requires planning process to consider impacts and opportunities to promote equity and economic justice

Section 8:

8.01: Emissions Requirements:

- Removed baseline columns from Table 1 and the related explanation of how to do the analysis. Instead, this information and guidance is now included in the Modeling Technical Support Memo.
- Ensured columns in Table 1 "add up" properly by adding "significant digits" to the Table.
- Removed Table 2.

8.02: Process for Compliance

- By including the words "at a minimum" to the section requiring modeling for Regionally Significant Projects, it allows for non-regionally significant projects that can be modelled to be included as part of the initial compliance determination rather than as a Mitigation Measure.
- Created a new section that allows the State Interagency Consultation Team to "meet as needed to address any question on the classification of projects as Regionally Significant, modeling assumptions, and projects that reduce GHG emissions."
- In a non-compliance situation
 - For MPO Areas: Removed the provision that restricted CDOT 10-Year Plan funds only to "Regionally Significant Projects"
 - Change treats CDOT 10-Year Plan funds the same as MPO funds.
 - For Non MPO Areas: Maintains the restriction on only Regionally Significant Projects



- Clarified that the funding restriction does not apply to funds where “a project was advertised for construction with funding identified prior to the adoption of the Applicable Planning Document.”

8.03: Mitigation Measures

- Added rural examples such as:
 - Transit for commuting to areas where individuals work
 - School bus/school carpool programs
 - Electrifying loading docks

8.05: Compliance (Previously Enforcement)

- Re-named the “Enforcement” section “Compliance”
- Language was added that requires the TC to act on a GHG Transportation Report within a specified period of time (30 days or the next TC meeting, whichever is later)
- Removed the language that stated if the TC did not act on a waiver request within the specified time period it would be “deemed denied” (but did not add language that it would be “deemed approved.”)

8.06: Reporting

- Amended the provision that a publicly available progress report must be made to the TC every 5 years. It is now every three years and the report is made to the AQCC as well as the TC.
- Added specific provisions for VMT reporting to the TC
 - VMT per capita for each calendar year.
- Added a provision that the TC shall consider revisions to the rule if there is no decrease in VMT per capita in one or more areas after 3 years of data.

There are also several things that remain the same in this draft of the rule:

- GHG Reduction Levels
 - The new draft retains the total GHG reduction levels as originally proposed
 - Some small adjustments to Table 1 to ensure the “total” row is accurate.
- Provisions that Acknowledge Regional Differences Across the State
 - The rule was drafted to focus on regionally significant projects (e.g. interstate widening, new interchanges) which occur predominantly in urban areas. This focus remains.
 - PPACG, PACOG, and GVMPO were given more time in the rule to comply with reduction levels, recognizing the importance of longer lead time to build modeling and technical capacities. This flexibility has not changed.
- Overall implementation and compliance structure
 - However, clarity and fairness of provisions improved due to MPO input.

Pursuant to section 24-4-103(2.5), C.R.S., this is an additional notice to extend the written comment period until November 18, 2021, at noon, release a revised draft of the proposed Rule changes and announce a virtual public hearing on November 10, 2021, at 3 p.m.

This Notice, the revised draft of the Rule, and the two informational documents will be posted on CDOT’s website at <https://www.codot.gov/business/rules/proposed-rules>.

