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**SUBJECT:** **Interim Guidance for Project Level Compliance of CRS 43-1-128 (National Environmental Policy Act and Construction)**

**How to use this Guidance:** This guidance should be considered a living document as staff works to implement the requirements of Colorado Revised Statute (CRS) 43-1-128. This interim guidance will be refined as project lessons are learned and ultimately used to inform updates to the CDOT National Environmental Policy Act (NEPA) Manual. Also included at the end of this document, titled Section 6.0, is some information and guidance on new Enterprise funds that may be available for your region projects. The most impactful new fund source could be the Nonattainment Area Air Pollution Mitigation Enterprise set up by Senate Bill 21-260 (SB21-260) and CRS 43-4-1301. These funds are available to CDOT or local agency projects to help reduce air pollution impacts.

Please submit questions, comments, suggested refinements and improvements to EPB staff as this guidance is applied to projects.

## 1.0 INTRODUCTION

SB21-260, which was signed by Governor Polis June 17, 2021, is primarily a transportation funding bill. However, new and significant environmental requirements

were provided in Section 30 (Subsections 1-6), which have been codified in the CRS 43-1-128. These subsections, which are called "parts" in that CRS, include:

1: Legislation Declaration
2: Definitions
3: Greenhouse gas (GHG) Planning Regulations
4: Environmental Study Requirements
5: Environmental Study Conditions
6: Public Engagement

This interim guidance is intended to help CDOT move forward with projects while EPB works to update the NEPA Manual and air quality guidance to reflect requirements of Parts 4, 5, and 6. Agencies involved in the NEPA Manual Update include the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Rail Administration (FRA), Environmental Protection Agency (EPA), and Colorado Department of Public Health and Environment's (CDPHE) Air Pollution Control Division (APCD). CDOT's Air Quality Project-Level Analysis Guidance (AQ-PLAG) was originally published in February 2019 as a joint effort between these agencies and will be updated to reflect CRS 43-1-128 modeling requirements from Part 4. In June 2023 the CDOT NEPA manual was updated to reflect the environmental requirements from Parts 4, 5, and 6 of CRS 43-1-128.However, this interim guidance will remain in effect for each corresponding part of the CRS until otherwise superseded by future guidance. This document also summarizes compliance with Part 3, including establishment of the GHG Planning Rule.

## 2.0 COLORADO REVISED STATUTE 43-1-128, as revised August 10, 2022

The following section contains Parts 4, 5, and 6 of CRS 43-1-128 (CRS). Terms underlined below have been interpreted in the "Regionally Significant and Transportation Capacity Definition Interpretation" memo dated August 31,2022. The application of these terms should be applied consistently throughout the CRS. For example, the term "planned" projects are those projects in CDOT's "10-year Plan and subsequent planning cycles", as described in Section 30, Part 3 of the CRS.

*(4) If a planned Transportation Capacity project is a Regionally Significant project, as determined by the Department with consideration given to Federal law or regulations that define or describe such projects, the Department shall,* ***through its environmental study process****;*

*(4)(a) Use federal environmental protection agency-approved* ***models*** *to determine air pollutant emissions impacts for the planned project and provide* ***monitoring and measurement*** *of criteria pollutants prior to construction;*

*(4)(b) Develop and implement* ***a particulate matter construction plan to provide continuous monitoring and transparent public reporting of concentrations****, public alerts issued as soon as possible when exceedance events occur, and action plans to address emission levels on construction projects prior to exceedances, with particular*

*focus on Disproportionately Impacted Communities; and*

*(4)(c)* ***Develop and implement a plan to mitigate air quality impacts on communities****, including but not limited to Disproportionately Impacted Communities adjacent to the project, with particular focus where feasible on mitigation of fine particulate matter pollution.*

*(5) With the exception of the Interstate Highway 270 Corridor Improvement Project, the requirements of subsections (4)(a) and (4)(c) of this section do not apply to any projects that have, on or before July 1, 2022, a signed Record of Decision, Finding of No Significant Impact, or Categorical Exclusions as provided by the federal "National Environmental Policy Act"~~,~~ of 1969", 42 U.S.C. sec. 4321 et seq.*

*(6) To promote transparency and increase both public participation and public confidence in Regionally Significant Transportation Capacity project selection, planning, and implementation in communities, including but not limited to Disproportionately Impacted Communities, the department shall, with opportunity for public input, review, update, and improve as necessary its public engagement program for planned Transportation Capacity projects. In doing so, the department shall create diverse and impactful ways to gather input from communities across the state by communicating in multiple languages and multiple formats and transparently sharing readily understandable information about potential adverse impacts, including but not limited to environmental and health impacts, of potential Transportation Capacity Projects.*

## 3.0 GREENHOUSE GAS OVERVIEW

Section 30 of SB21-260 includes GHG requirements in Part 3. CDOT demonstrated compliance with these requirements due to the work completed as part of the 10-year Plan update and GHG Transportation Report submitted to the Transportation Commission in September 2022. Future 10-year Plan updates and adoptions will require CDOT to demonstrate compliance with the rule. These requirements and resulting actions by CDOT are explained in this section of the Interim Guidance.

The Pollution Reduction Planning Standard, commonly referred to as the "GHG Planning Standard", was adopted by the Transportation Commission in December of 2021. On May 19, 2022, the Transportation Commission voted to adopt GHG Mitigation Measures Policy Directive 1610 which established an ongoing administrative process and guidelines for selecting, measuring, confirming, verifying, and reporting on GHG Mitigation Measures.

The GHG Planning Standard requires Regionally Significant Transportation Capacity projects to account for the impacts on statewide GHG pollution as part of the planning process. As mentioned earlier, CDOT's interpretation of a "Regionally Significant Transportation Capacity Project" as well as examples of projects exempt from these requirements is provided on the Greenhouse Gas (GHG) Program website. The rule requires CDOT and the state's five Metropolitan Planning Organizations

(MPOs) to create transportation plans that support travel choices which reduce GHG emissions. The agencies (CDOT and the MPOs) must use travel demand models, in combination with the EPA MOVES Model, to make this determination for different years in the future, and the emission goals differ for each agency. If an agency cannot meet the GHG reduction levels, it can choose one or more GHG Mitigation Measures as needed to meet the GHG Planning Standard. Examples include more public transit, walking and bicycle trails, medium and heavy-duty electric vehicle charging stations, carpool programs, and land use policies. If an agency still cannot meet its GHG reduction goals even after using GHG Mitigation Measures, the Colorado Transportation Commission can designate that specific funding streams for an agency be spent on projects that reduce GHG emissions. The Transportation Commission can also issue waivers if needed. The Transportation Commission accepted CDOT's 10-year Plan and the GHG Transportation Report in September of 2022, which demonstrated compliance with the GHG Transportation Planning Standard.

## 4.0 SECTIONS 4-6: PROJECT APPLICABILITY

CDOT consulted with the Colorado Attorney General's (AG) Office to clarify the requirements in Sections 4 and 5 to determine their applicability to specific projects. As a result of this consultation, the AG provided guidance that CRS 43-1-128 Part 4 shall be implemented as follows:

- Part 4a and 4c applies to all Regionally Significant, Transportation Capacity Projects in the 10-year Plan which received a Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion as provided by the National Environmental Policy Act on or after July 1, 2022. This also applies to RODs and FONSIs that require a revision after July 1, 2022, but not to projects that just needed a reevaluation, because reevaluations only determine if the NEPA decision document conclusion is still valid. Part 4b applies to all Regionally Significant, Transportation Capacity projects under active construction, regardless of the NEPA documents decision date.

Each project in the 10-year Plan will need to be evaluated to see if it meets the definition of RS/TC. For purposes of applying the requirements of CRS 43-1-128, CDOT's Regional Planning and Environmental Managers (RPEMs) with support from EPB air quality specialists shall periodically review planned projects and maintain an up to date list of upcoming RS/TC projects. If a project team believes a project on the 10-year Plan should be evaluated differently than what is in the table for the purposes of NEPA, then they can take this to CDOT's Executive Management Team for review.

EPB prepared a statewide air quality monitoring contract in calendar year 2023 to support upcoming projects with SB21-260 air quality monitoring requirements . The scope of work currently includes projects which require pre-construction or during construction monitoring in calendar year 2023 and beyond. Please contact Chris Laplante or David Messmer at EPB for more information on the status of this contract and whether resources are available to support your project well in advance of the project advertisement date.

### 4.1 Conditional Exemption for Small Project Actions in Advance of a Regionally Significant, Transportation Capacity Projects in the 10-Year Plan

Section 30 requires that CDOT "minimize the adverse environmental and health impacts of planned transportation capacity projects and address inequitable distribution of burdens of such projects". In some instances, small early action projects take place in advance of a larger Regionally Significant, Transportation Capacity Project in the 10-year Plan which are not, in of themselves, projects that would cause the impacts attributed to the larger project that makes it regionally significant. Examples include utility relocations, vegetation removal, structure or asset demolition, preservation or replacement, and other maintenance work. A current example is the early action round-about and wildlife crossings constructed as part of the Floyd Hill Project. These projects by themselves do not qualify as a Regionally Significant Transportation Capacity Project, nor are they anticipated to have the air quality impact. When small project actions like these do not "cause adverse environmental impacts"... "which fall most heavily on communities adjacent to projects", as described Section 30, Part 1, CDOT interprets this to mean that these small early action projects would not be required to expend state funds to comply with Part 4 until the larger elements with impacts of the Regionally Significant, Transportation Capacity project are planned for construction.

CDOT RPEMs, with the assistance of EPB, will analyze these small, early action phases on a case-by-case basis to document the scope of work, proximity of sensitive receptors and probability of impacts as well as timing of these early action phases with the larger regionally significant phase of the project to make sure there is a true separation of construction activities in time and space. When it can be demonstrated that a small phase will not have an air quality impact relative to Part 4 on the surrounding communities, CDOT believes it is appropriate for this early action activity to be exempt from Part 4 which will benefit CDOT and the public by expediting project schedules and reducing project costs where no air quality impact is expected. Each early action project under review must be approved by a CDOT Air Quality Specialist and documented via a memo in the project file as a record of compliance with this legislation. The larger, RS/TC project shall still be expected to meet the full requirements of Section 4.

## 5.0 SECTIONS 4-6: NEPA ANALYSIS

Guidance in this section applies to project-specific impacts assessed during the NEPA analysis and construction phases of a project. This interim guidance applies until further guidance, as described in Section 1 becomes available and supersedes this guidance. The planning portion of CRS 43-1-128, Part 3 is summarized below.

### 5.1 Interim Guidance - Part 3 (GHG Analysis Under NEPA)

The requirement is outlined in CRS 43-1-128, Section 3(b) "Otherwise reduce greenhouse gas emissions to help achieve the statewide greenhouse gas pollution reduction targets established in section 25-7-102 (2)(g)". A project that is included as part of an approved 10-year Plan will have been included in a plan-wide GHG analysis

as part of the requirements for the GHG Pollution Reduction Planning Standard (2 CCR 601-22, Section 8). However, this analysis does not preclude additional GHG impacts analysis and mitigations as part of the NEPA process.

To determine if a project requires additional GHG analysis and mitigation, project sponsors should consult EPB's GHG Specialist until the GHG Project-Level Analysis Guidance is available. When considering a project's impacts on VMT, GHGs, and other air pollutants, the project sponsors should document any planned or existing support for increasing travel choices that are less GHG intensive, (e.g.lower-carbon intensive fuels), lowering VMT (e.g. multimodal actions), or carbon sequestering activities as project-related elements that could lower GHG emissions. Some examples of GHG mitigations can be found in CDOT Policy Directive 1610, but this is not a complete list.

It is likely that these project elements are interconnected with other programs, and those interactions can be described. For example, Procedural Directive (PD 1602.1): Elevating Bicycle and Pedestrian Opportunities in Colorado asks project sponsors to evaluate all projects for bicycle and pedestrian opportunities; the development of new or improved bicycle and pedestrian facilities can lower GHG emissions resulting from the project. Furthermore, any related Complete Streets, Safe Routes to School, Transportation Demand Management, Congestion, Mitigation and Air Quality (CMAQ) or similar projects which would further reduce GHG emissions should be also accounted for in the GHG NEPA analysis if required and associated with, or nearby, a Regionally Significant, Transportation Capacity project.

There is an expectation that some projects should describe ways to further address GHG reductions by considering additional GHG mitigations as project elements. The specific project-level analysis that is required will be defined in the GHG Project-Level Analysis Guidance document when published.

### 5.2 Interim Guidance - Part 4(a) (Modeling)

This interim guidance describes how to comply with the modeling requirements from Part (4)(a) for RS/TC projects:

1. Model air pollutants identified as transportation-related pollutants, as described in Section 2.4 of the CDOT AQ-PLAG:

    - Criteria Pollutants: carbon monoxide (CO), nitrogen dioxide ($NO_2$), particulate matter of 10 microns in diameter or smaller ($PM_{10}$), particulate matter of 2.5 microns in diameter or smaller ($PM_{2.5}$), and ozone precursors volatile organic compounds (VOCs) and nitrogen oxides ($NO_x$)
    - Mobile Source Air Toxics (MSATs): 1,3-Butadiene, Acetaldehyde, Acrolein, Benzene, Diesel particulate matter (PM), Ethylbenzene, Formaldehyde, Naphthalene, and Polycyclic organic matter (POM)
    - GHGs: carbon dioxide ($CO_2$), methane ($CH_4$), and nitrous oxide ($N_2O$).

2. MSAT analysis guidance within the AQ-PLAG also covers MSAT analysis for CRS

43-1-128: It is not intended that a project would have more than one quantitative MSAT analysis. However, the project needs to comply with both the AQ-PLAG MSAT analysis and the CRS 43-1-128 MSAT analysis requirements. To add to the complexity of the MSAT requirements, a RSTC project could be Category 2 (Qualitative analysis only for federal purposes) for MSATs under the 2016 FHWA guidance and the CDOT AQ-PLAG, but still require quantitative modeling analysis under CRS 43-1-128 4(a).

GHG Analysis will be addressed by the GHG-PLAG including GHG analysis for CRS 43-1-128:
Until the GHG-PLAG is issued, project teams will work with the GHG specialist in EPB to develop GHG resource analysis methods to comply with CRS 43-1-128.

If no other AQ-PLAG requirement triggers modeling but project still has a CRS 43-1-128 MSAT, GHG and Criteria pollutant analysis requirement: If quantitative air quality analysis is required under the CRS 43-1-128(4)(a) but not otherwise by the CDOT AQ-PLAG, then an air quality tech report documenting the analysis must be produced. GHG analysis shall be performed at the direction of the EPB GHG Specialist until the GHG-PLAG and updates to the NEPA manual are finalized. Criteria Pollutant and MSAT analysis shall be performed at the direction of the EPB AQ specialist until an updated AQ-PLAG is finalized.

3. Unless an alternate model is otherwise approved by CDOT management, use the most up-to-date version of EPA's MOVES model (e.g., MOVES5 or later) to model each pollutant identified in #1 of this section. The analysis will be similar to and documented the same as the quantitative analysis described in Sections 7.2 (criteria pollutants) and 13.8 (MSAT) of the 2019 AQ-PLAG. Guidance for how to appropriately document a GHG modeling analysis should be coordinated with the EPB GHG specialist and in alignment with the GHG-PLAG once published.

4. Model each scenario being considered in accordance with NEPA (e.g., existing condition, No Action, Proposed Action, Preferred Alternative, and other alternative(s)) requirements.

### 5.3 Interim Guidance - Parts 4(a) and 4(b) (Monitoring)

This interim guidance describes how to comply with the monitoring and associated requirements from Parts 4(a), 4(b), and 4(c). Part 4a requires monitoring "prior to construction" and applies to all Regionally Significant, Transportation Capacity Projects in the 10-year Plan which received a Record of Decision, Finding of No Significant Impact, or Categorical Exclusion as provided by the National Environmental Policy Act on or after July 1, 2022. This also applies to RODs and FONSIs that require a revision after July 1, 2022, but not to projects that just needed a reevaluation. Reevaluations only determine if the NEPA decision document conclusion is still valid. Part 4b requires monitoring "during construction" and applies to all projects under active construction, regardless of the NEPA documents decision date. Compliance with

these requirements will be as described in this table:

*Table 1. Air Quality Monitoring Parameters for Regionally Significant, Transportation Capacity Projects*

| Parameter | Prior to Construction | During Construction |
|---|---|---|
| Pollutants | CO, $NO_2$, $PM_{10}$, $PM_{2.5}$, and ozone | $PM_{10}$ and $PM_{2.5}$ |
| Meteorology Parameters | Wind speed[1], wind direction[1], temperature, and relative humidity at a minimum | Same as preconstruction |
| Duration | Minimum 1 month[2]; project may monitor longer[3] | Throughout construction |
| Number of Monitors Per Pollutant | Minimum 1[4] | Minimum 2[5] |
| Number of Meteorology Monitors | 1; may be more if a pollutant monitor includes ability to measure meteorological condition(s) | Same as preconstruction |
| Location of Air Quality Monitors | At least one set of air quality monitors (one for each pollutant) shall be placed upwind of the project and at least one set shall be placed downwind, if there is a dominant wind direction | CDOT Air Quality Specialist must approve monitoring locations. Monitoring locations should be placed to identify ambient and construction emissions, with consideration of impacts to sensitive receptors and DI communities. |
| Type(s) of Air Quality and | CDOT Air Quality Specialist | CDOT Air Quality Specialist |

[1] Use a unit-vector algorithm for wind speed/direction per EPA QA Handbook, EPA-454/B-08-002.
[2] The length of time to monitor prior to construction refers to the amount of time that monitors collect data. Additional time will be needed prior to beginning data collection (e.g., equipment set up and calibration).
[3] The CDOT Air Quality Specialist will determine if a project conducts preconstruction monitoring for longer than one month and, if so, for how long. Generally, preconstruction monitoring will not last longer than two months. Length of monitoring may vary depending on factors such as: how long the project will last, proximity to adjacent and/or downwind population centers and sensitive receptors including Disproportionately Impacted Communities, proximity of other air monitors (e.g., those run by APCD), background concentrations, whether it is fire and/or ozone season, and public interest in the project.
[4] A minimum of one (1) preconstruction monitor is required. However, based on the size of the project and agreement with the EPB Air Quality Specialist additional monitors may be required.
[5] The number of monitors per pollutant during construction is set by the CDOT Project Manager and varies between projects depending on similar factors used to determine the length of preconstruction monitoring, as well as the geographic extent of construction activity, types of construction activity that will take place, and proximity of non-construction pollutant sources impacting local air quality issues. The stated range refers to the number of monitors actively collecting data. Additionally, projects should have a calibrated spare PM10 and PM2.5 monitor available, in case of a monitor malfunction.

| Parameter | Prior to Construction | During Construction |
|---|---|---|
| Meteorology Monitors | must approve type(s) used. For particulate matter, FEM or other sensors able to provide high quality, reliable data should be used. | must approve type(s) used. For particulate matter, FEM or other sensors able to provide high quality, reliable data should be used. |
| Public Reporting of Monitoring Data | Not Applicable | Required |
| Method of Public Reporting | Not Applicable | Preliminary pollutant monitoring data to a project-specific website in (near) real time updated on an hourly basis. Note on the website that data has not been corrected or validated. |
| Public Alerts of Exceedances | Not Applicable | Alert public of validated exceedances. This may include distributing an email to pre-registered users with a link to the project-specific website or posting the exceedance to a website. |
| Validating Public Exceedances | Not Applicable | If the Public Alert Threshold is exceeded, a team (e.g., communications manager, project engineer, and air quality consultant) will determine if the exceedance is accurate and the public will be notified only of validated exceedances. |
| Timeframe to Notify Public | Not Applicable | Public alerts will be made once per day, within 24 hours of the exceedance of the Public Alert Threshold, unless there is a unique situation as approved by CDOT Air Quality Specialist. |
| Public Alert Threshold, $PM_{10}$ | Not Applicable | Daily Average of $\geq$154 $\mu g/m^3$ [6] |

[6] Public alert thresholds use EPA's 24 hour NAAQS standard of Air Quality Index (AQI) of 100 for particulate matter. "An AQI value of 100 generally corresponds to an ambient air concentration that equals the level of the short-term national ambient air quality standard for protection of public health. AQI values at or below 100 are generally thought of as satisfactory. When AQI values are above 100, air quality is unhealthy: at first for certain sensitive groups of people, then for everyone as AQI values get higher."

| Parameter | Prior to Construction | During Construction |
|---|---|---|
| Public Alert Threshold, $PM_{2.5}$ | Not Applicable | Daily Average of $\geq$ 35.4 $\mu g/m^3$ |
| Internal Mitigation Alert, $PM_{10}$ | Not Applicable | When sensor values read greater than 154 micrograms per cubic meter ($\mu g/m^3$), generally for a period of 1 to 3 hours consecutively as determined for the project |
| Internal Mitigation Alert, $PM_{2.5}$ | Not Applicable | When sensor values read greater than 35.4 $\mu g/m^3$, generally for a period of 1 to 3 hours consecutively as determined for the project |
| Public Alert Content | Not Applicable | Monitor location, pollutant, concentration, threshold exceeded. May include construction activities, other pollutant sources, wind speed, and wind direction at time of trigger, and mitigation actions taken. |
| Project-specific Air Quality Construction Plan | Not Applicable | Create project-specific plan[7] that addresses CRS plan requirements: particulate matter construction plan (covers monitoring, reports to the public, and public alerts); an action plan, and a plan to mitigate air quality impacts on communities. Also include or refer to the Fugitive Dust Control Plan, if required by APCD |
| Primary contact for monitoring contractor(s) | CDOT project or resident engineer | Same as preconstruction |

The requirements in the table above for Public Reporting and posting of non-validated data are based, in part, on the Central 70's court settlement which led to a CDOT commitment to conduct particulate matter monitoring during construction of the I-70

[7] The plan must be based on CDOT's plan template (TBD) and must be approved by the CDOT Project Manager and CDOT Air Quality Specialist.

Central project. The settlement required hourly concentrations for the most recent hour at each monitor to be posted on a publicly accessible project website on an hourly basis, except during maintenance, calibration, monitor relocation, upgrades, outages, or other reasonable delays or circumstances where data is not collected. It is standard practice to post data in real time that has not been validated, including monitoring data published publicly by APCD. Validation, including corrections of that data, is a process that takes time. The practice of providing a note on the website stating that “the data hasn't been validated yet” is also a standard practice.

Additionally, the requirement that there is a monitor with an alert that goes to the construction team was influenced by the Central 70 project. At least 3 people from Central 70 attended the monitoring meetings that were held with a CDOT air quality specialist from December 2021 to March 2022. The meetings included project management, construction personnel, engineers, and Central 70's communications staff. This guidance was based on feedback and discussion with this wide group of CDOT staff.

DTD holds a statewide contract for air quality monitoring services so that a project manager can request monitoring services for a project. The awarded contractor will implement the monitoring program and  will be expected to run their proposed methodology by the project manager for acceptance, manage the sensor calibration, sensor deployment, and data collected. They will work with CDOT DTD to communicate the sensor data to a dashboard for review by the project team and to validate the findings before notifying the public of any exceedances.

### 5.4 Interim Guidance - Part 4(b) Action Plan, and Part 4(c) Air Quality Mitigation

CRS 43-1-128 Part 4(b) requires CDOT to develop “action plans to address [PM] emission levels on construction projects prior to exceedances with particular focus on Disproportionately Impacted Communities”.

CRS 43-1-128 Part 4(c) requires CDOT to “develop and implement a plan to mitigate air quality impacts on communities, including but not limited to Disproportionately Impacted Communities adjacent to the project, with particular focus where feasible on mitigation of fine particulate matter pollution”.

**Project-specific Air Quality Construction Plan**: Regionally Significant Transportation Capacity Projects in CDOT’s 10-year Plan must create a project-specific plan that addresses CRS Part 4(b) and 4(c) requirements. This includes a particulate matter construction plan which covers monitoring, reporting data to the public, and public alerts; an action plan to mitigate air quality impacts on communities, which should also include or refer to the Fugitive Dust Control Plan, if required by APCD. The Air Quality Construction Plan must be based on CDOT’s plan template and must be approved by the CDOT Project Manager and CDOT Air Quality Specialist.

CDOT currently has the following measures to address particulate matter pollution and air quality:

1. Compliance with Policy Directive 1901.0: CDOT Policy on Air Quality
2. Compliance with the 2017 CDOT Air Quality Action Plan
3. Compliance with Procedural Directive (PD 1601): Transportation Commission Approval of the Revised Interchange
4. Compliance with Procedural Directive (PD 1602.1): Elevating Bicycle and Pedestrian Opportunities in Colorado
5. 2023 Construction Standard Specifications
    a. Section 107.24 Air Quality- requires that projects comply with Colorado Revised Statutes Title 25 - Public Health And Environment, Article 7. Air Quality Control
    b. Section 107.25(b)(5)- Stormwater Management Plan needs to address "Significant dust or particle generating processes" as a potential pollutant.
    c. Section 209.05- Watering and Dust Palliative includes contractor payments for water and dust palliative.
6. Colorado Revised Statutes Title 42 - Vehicles and Traffic, Idling Standard Article 14 - State Idling Standard § 42-14-105. “The owner or operator of a covered vehicle shall not cause or permit the vehicle to idle for more than five minutes within any sixty-minute period except as authorized by subsection (2) of this section.”
7. The contractor will ensure that all construction equipment is properly tuned and maintained.

CDOT will consider the following measures to improve air quality, as appropriate, in future projects:

1. Submit an Air Pollutant Emissions Notice (APEN) and Air Permit Application to the Colorado Department of Public Health and Environment (CDPHE) for the following activities:
    a. Asphalt paving materials plant APEN: Form APCD-225
    b. Concrete batch plant APEN: Form APCD-224
    c. Crusher/Screen APEN: Form APCD-221
    d. Land Development APEN: Form APCD-223
        i. For projects greater than 25 contiguous acres or a duration longer than six months.
        ii. Requires a Fugitive Dust Control Plan with control measures.
2. Control options for Unpaved Roadways
    a. Watering, paving, graveling, chemical stabilizer, controlling vehicle speed.
3. Control Options for Mud and Dirt Carry-Out onto Paved Surfaces
    a. Gravel entry ways, anti-tracking pads, covering load, washing vehicle wheels, not overfilling trucks, frequent sweeping of paved surfaces near entry ways
4. Control Options for Disturbed Areas
    a. Watering, revegetation, compaction, wind breaks, chemical stabilizer, controlling vehicle speed, furrowing soil, minimize disturbed area, synthetic or natural cover.

5. Use existing power sources or clean fuel generators rather than using temporary power generators.
6. Prohibit batch plants from being on-site when near residential areas or locations used by the public, for example schools.
7. Carbon sequestration through landscape design and native plantings.

### 5.5 Interim Guidance - Environmental Justice and Equity

CRS 43-1-116 instructs the Environmental Justice and Equity Branch to help Disproportionately Impacted (DI) communities engage in the environmental process for all transportation capacity projects. Part 6 of CRS 43-1-128 asks that CDOT improve its public engagement program for all Regionally Significant projects.

CDOT's project team should coordinate early in the project development process with their regional environmental staff, with support from EPB's EJ and Equity Specialist, to determine if the project is in a DI Community or will impact a DI Community. CDOT's NEPA Manual was updated in June of 2023 and Chapter 9, Section 16.2 was added to address the requirements of CRS 43-1-128, Part 6. In addition, Chapter 7 of the revised CDOT NEPA Manual includes the Stakeholder Involvement Guidance and Public Involvement Plan, which describes the federal requirements for Title VI and Section 508 Compliance. Projects which require public involvement should also reference the USDOT Public Involvement Guide as part of the NEPA process.

## 6.0 Additional Consideration of Enterprise Funding for Projects Improvements

SB21-260, Section 52, created two new CDOT Enterprises known as the Clean Transit Enterprise and the Nonattainment Area Air Pollution Mitigation Enterprise.

The Clean Transit Enterprise business purpose (CRS 43-4-1203(3)) is to reduce and mitigate the adverse environmental and health impacts of air pollution and greenhouse gas emissions produced by motor vehicles used to make retail deliveries by supporting the replacement of existing gasoline and diesel transit vehicles with electric motor vehicles, including motor vehicles that originally were powered exclusively by internal combustion engines but have been converted into electric motor vehicles, providing the associated charging infrastructure for electric transit fleet motor vehicles, supporting facility modifications that allow for the safe operation and maintenance of electric transit motor vehicles, and funding planning studies that enable transit agencies to plan for transit vehicle electrification. For information on funding opportunities through the Clean Transit Enterprise please visit the Enterprise website here:
https://www.codot.gov/programs/innovativemobility/cte

The Nonattainment Area Air Pollution Mitigation Enterprise business purpose (CRS 43-4-1303(3)), is to mitigate the environmental and health impacts of increased air pollution from motor vehicle emissions in nonattainment areas that results from the rapid and continuing growth in retail deliveries made by motor vehicles and in

prearranged rides provided by transportation network companies *by providing funding for eligible projects* that reduce traffic, including demand management projects that encourage alternatives to driving alone or directly reduce air pollution, such as retrofitting of construction equipment, construction of roadside vegetation barriers, and planting trees along medians. For information on funding opportunities through the Nonattainment Area Air Pollution Mitigation Enterprise please visit the Enterprise website here: https://www.codot.gov/programs/naapme

History

| Issuance | Date | Notes |
|---|---|---|
| Version 1 | March 31, 2023 | Initial Interim Guidance Issuance |
| Version 1.01 | Current Issuance | Guidance updated to address lessons learned through initial implementation of AQ monitoring program and provide clarifying language updates throughout. |