

**Nonattainment Area Air
Pollution Mitigation Enterprise**

10 Year Plan

ADOPTED JUNE 23, 2022



COLORADO
Department of Transportation

Nonattainment Area Air Pollution
Mitigation Enterprise

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Letter from the Board

Hello Coloradans!

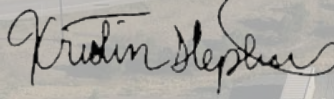
On behalf of the Board of Directors of the Nonattainment Area Air Pollution Mitigation Enterprise, I am pleased to present our Ten-Year Plan. This document lays the framework for how this Enterprise will look, not only to fulfill its business purpose, but to allow stakeholders, local government officials, and community members to see how the enterprise plans to allocate its funds and resources over the first ten years.

In this plan, we have highlighted three funding areas, which will provide the basis for project selection and prioritization activities that will continue into our first official year of operation. However, this is not a static document; we are committed to having this plan be a living document that will grow and change as decisions are made, circumstances change, and new opportunities arise.

As we continue our work and begin funding projects that will help reduce the environmental and health impacts of transportation, we want to be accountable and transparent with the funds that have been entrusted to us from the Colorado General Assembly and the People of Colorado. In the next few months, we will establish a public accountability dashboard on our website that will help monitor what projects are being funded in the nine-county nonattainment area. Starting in July 2023 we will be publishing an annual report and presenting our work and accomplishments to the Colorado Transportation Commission and the committees of reference in the Colorado General Assembly.

Our Ten-Year plan was informed by public outreach events which helped us identify priorities within our three funding focus areas and will lay the foundation for our activities through next year. Many community partners, residents, and transportation planning organizations have provided valuable input on how to provide programs that meet the needs of our communities and provide viable alternatives that can help achieve our business purpose.

We look forward to engaging with you in the future!

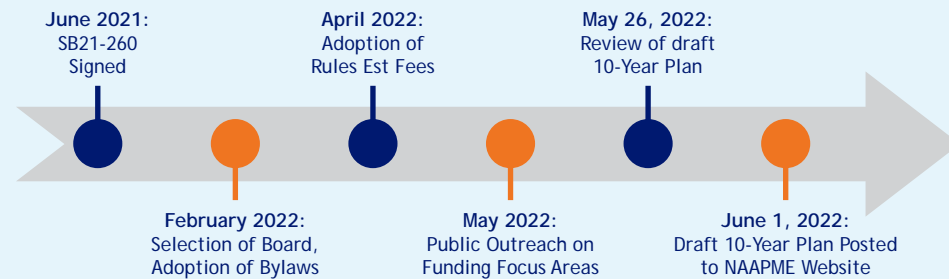
Kristin Stephens


Chair, Nonattainment Area Air Pollution Mitigation Enterprise Board of Directors

Introduction

The Nonattainment Area Air Pollution Mitigation Enterprise (NAAPME), or Nonattainment Enterprise, is one of four new enterprises created by the Colorado General Assembly through Senate Bill 21-260. The Enterprise was established by the legislature to fund projects that help address traffic congestion and reduce the environmental and health impacts of transportation in areas of the state that are federally designated as being in nonattainment with EPA's air quality standards. The Enterprise is housed within the Colorado Department of Transportation and managed by a Board of Directors.

As required within statute, the Enterprise's 10-Year plan outlines the business purpose of the enterprise and establishes the overall direction for the use of these funds through state fiscal year 2031-32. This plan was designed to be flexible to changes in fee collection and market conditions, community needs, and other issues that could affect the business purpose of the Enterprise.



The plan was developed with direction from the Enterprise's Board of Directors and input from local government and the public through outreach efforts conducted by enterprise staff throughout the spring of 2022.

In addition to outlining the overall direction of the enterprise over the next ten years, this plan explains what areas of the state are in nonattainment status, the development of a preliminary spending plan for the next ten years, and outlines potential requirements for projects funded by the enterprise. Further refinements of the enterprise's 10-year plan will continue throughout its life, at the discretion of the enterprise's Board of Directors.



Senate Bill 21-260

Senate Bill 21-260, formally known as the *Concerning the Sustainability of the Transportation System in Colorado* act was passed by the Colorado General Assembly and signed into law by the Governor of Colorado in June 2021. The legislation established two new fees that will fund activities under four new enterprises:

- A new fee on most rides from transportation network companies (TNC) like Uber and Lyft, and;
- A new fee on retail deliveries from companies like FedEx and Amazon.

The Nonattainment Area Air Pollution Mitigation Enterprise is one of the recipients of these funds, starting in July of 2022.

Business Purpose of the Enterprise

Under Colorado Revised Statutes 43-4-1303, as amended by Senate Bill 21-260, defines the business purpose of the Nonattainment Area Air Pollution Mitigation Enterprise in subsection three of this statute as:

// The business purpose of the enterprise 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 that directly reduce air pollution, such as retrofitting of construction equipment, construction of roadside vegetation barriers, and planting trees along medians. //

As required by statute, projects funded by this enterprise will be located within nonattainment areas in Colorado.

Ozone is the only pollutant that currently has a nonattainment area within the state, covering nine counties, along the northern and central Front Range. Areas eligible for funding from the enterprise will change in the event the United States Environmental Protection Agency (EPA) adjusts nonattainment areas within the state.

Funding Focus Areas

To fulfill its purpose, the Nonattainment Enterprise has three funding focus areas, as outlined in statute, that will help determine whether a project qualifies for funding from the enterprise:



Projects that sustainably reduce traffic congestion



Projects that reduce the environmental and health impacts of transportation



Projects that improve neighborhood connectivity for communities adjacent to highways

The legislation further directs the Enterprise to take into account issues and impacts of particular importance to the state, including reduction of greenhouse gas emissions and fine particulate matter from the transportation sector.

Nonattainment Enterprise Board of Directors

The enterprise’s seven member board of directors is its primary governing body, charged with the following duties:

- Impose the air pollution mitigation per ride and the air pollution mitigation retail delivery fees;
- Issue grants, loans, rebates, and other funding mechanisms for eligible projects;
- Issue revenue bonds payable from enterprise revenue and other available fund sources to the enterprise
- Adopt bylaws for the regulation of its affairs and the conduct of its business;
- Acquire, hold title to, and dispose of real and personal property;
- Employ and supervise individuals, professional consultants, and contractors as necessary to carry out the enterprise’s business purpose;
- Seek, accept, and except gifts, grants, donations from private or public sources to fulfill its business purpose, within the restrictions outlined with the Colorado Constitution and statutes;
- Promulgate rules specifically to set the amounts collected of both fees, at or below the maximum values authorized by statute; and
- Publish the process by which the enterprise accepts applications, the criteria for evaluating applications, and a list of grantees or program participants.

Board Composition & Enterprise Staffing

By statute, the governing board consists of seven members, appointed by the Governor of Colorado and confirmed by the Colorado Senate, using the following criteria:

- One member with expertise on environmental, environmental justice, or public health issues;
- One member who is an elected official of a disproportionately impacted community that is a member of the Denver Regional Council of Governments (DRCOG);
- One member who is an elected official of a local government that is a member of the North Front Range Metropolitan Planning Organization (NFRMPO);
- Up to two members who are representatives of disproportionately impacted communities;
- The Executive Director of the Colorado Department of Transportation or the Executive Director’s Designee; and
- The Executive Director of the Colorado Department of Public Health and Environment or the Executive Director’s Designee.

Appointed members of the board serve at the pleasure of the Governor. The other board members serve for as long as they hold their executive director positions or are designated to serve by an executive director.

In addition to the Board of Directors, the enterprise currently has two staff members who have duties defined by the enterprise’s bylaws and were appointed by an affirmative vote of the board: Enterprise Program Administrator and Board Secretary.

FIGURE 2: COMPOSITION OF THE NONATTAINMENT ENTERPRISE’S BOARD OF DIRECTORS AS OF JUNE 2022

DIRECTOR	COMMUNITY REPRESENTED	APPOINTMENT CRITERIA
Lynn Baca	Brighton	Elected official of a disproportionately impacted community that is a member of DRCOG.
Yessica Holguin	Denver	Representative of a disproportionately impacted community.
Kristin Stephen	Fort Collins	Elected official of a disproportionately impacted community that is a member of NFRMPO.
Danielle “Stacy” Suniga	Greeley	Expertise on environmental, environmental justice, or public health issues.
Leanne Wheeler	Aurora	Representative of a disproportionately impacted community.
Shoshana Lew	Colorado Department of Transportation	Executive Director of the Colorado Department of Transportation.
Dena Wojtach	Colorado Department of Public Health & Environment	Executive Director Designee of the Colorado Department of Public Health and Environment.



Nonattainment Areas of Colorado

The Clean Air Act, last amended in 1990, requires the EPA to set National Ambient Air Quality Standards (NAAQS) for six principal pollutants (“criteria” air pollutants) which can be harmful to public health and the environment.

Within the act, there are two standards identified for national ambient air quality standards. Primary standards provide public health protection, including protecting the health of “sensitive” populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Each standard may have a different maximum level for achievement of standards and different time standard for averaging measurements of the pollutant. These pollutants can come from a variety of sources and different industries, but transportation emissions are one major source in many cases.



The six principal criteria air pollutants, as outlined by the Clean Air Act, are as follows:

- Carbon Monoxide (CO)
- Lead (Pb)
- Nitrogen Dioxide (NO₂)
- Ozone (O₃)
- Particulate Pollution (PM)
- Sulfur Dioxide (SO₂)

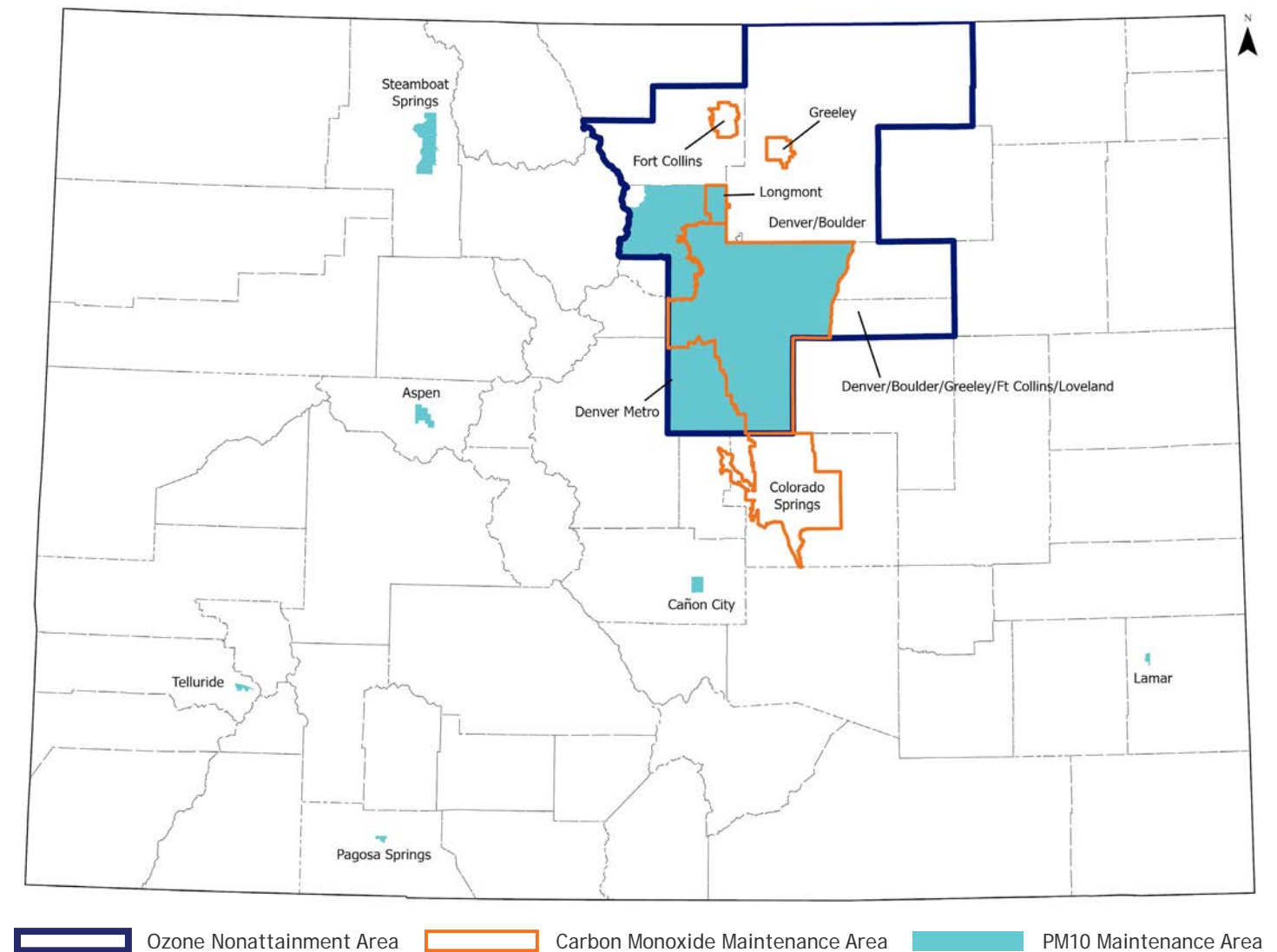
If an area exceeds the maximum levels for NAAQS, it is considered to be in “nonattainment.” This can vary in severity from marginal to extreme, depending on the amount of pollution reported in the area and/or failure to achieve the standard within a specified timeframe. An area can move out of nonattainment, must meet certain maintenance requirements for an amount of time (often twenty years) before requirements can be lifted.

While in the past there have been nonattainment areas for particulate pollution and carbon monoxide, all of these areas within Colorado are currently in attainment or in maintenance status. The only pollutant for which Colorado has a nonattainment area is ozone. The EPA has proposed changing the status of this nonattainment area from “serious” to “severe”

Ozone pollution in the air people breathe can harm their health, especially on hot sunny days when ozone can reach unhealthy levels. People at the greatest risk of harm from breathing air containing ozone often include people with lung conditions, such as asthma. Elevated exposures to ozone can also affect sensitive vegetation and ecosystems, including forests, parks, wildlife refuges, and wilderness areas, especially during the growing seasons. Additional information on the effects of ozone pollution, determination of nonattainment and information on other pollutants in the Clean Air Act are available from the EPA at its [Nonattainment Areas for Criteria Pollutants \(Green Book\) webpage](#).

The only pollutant in which Colorado has a nonattainment zone is Ozone. There are currently **nine counties** in ozone nonattainment including: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, a portion of Larimer, and Weld counties.

FIGURE 3: NONATTAINMENT AREAS AND MAINTENANCE AREAS WITHIN COLORADO



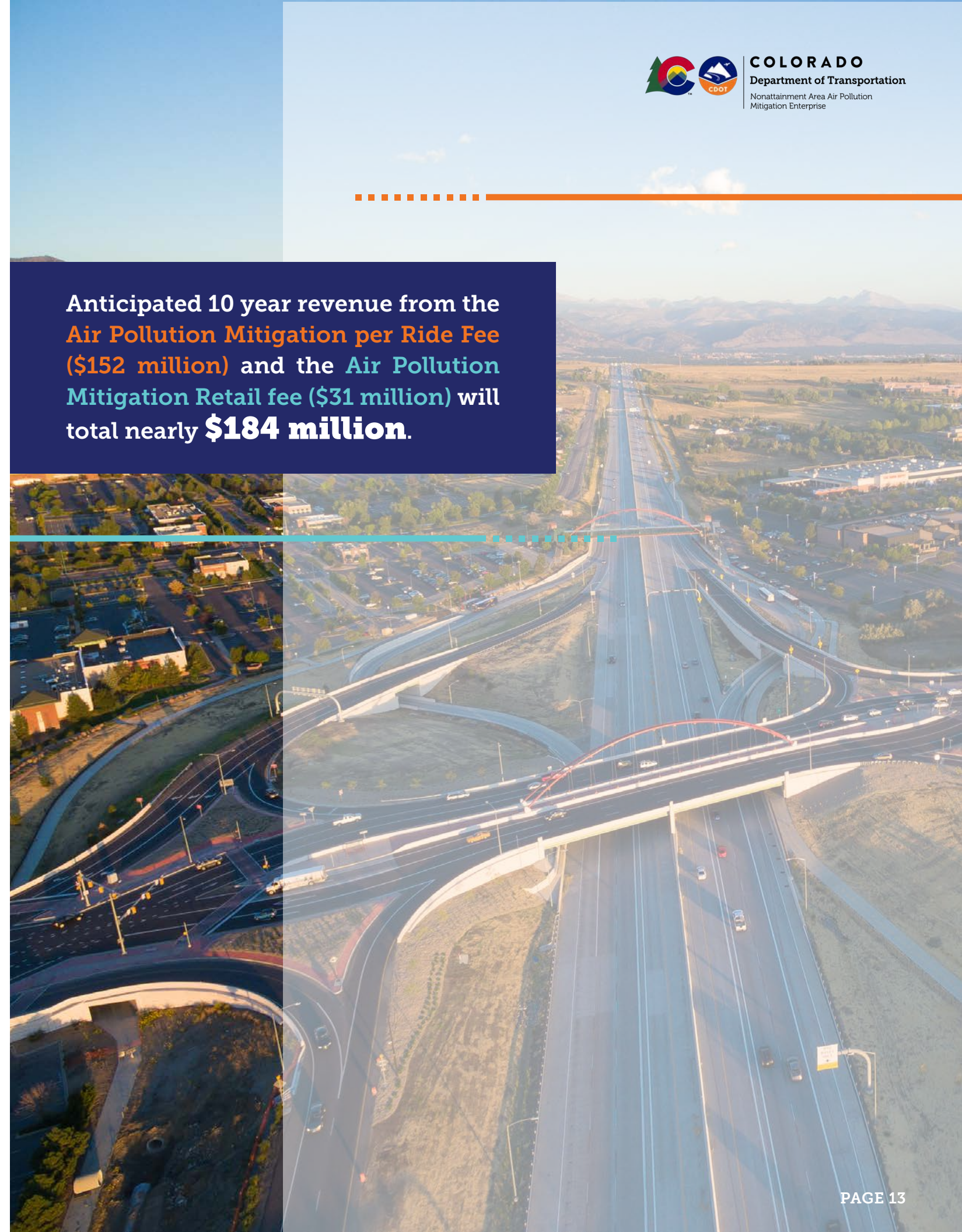
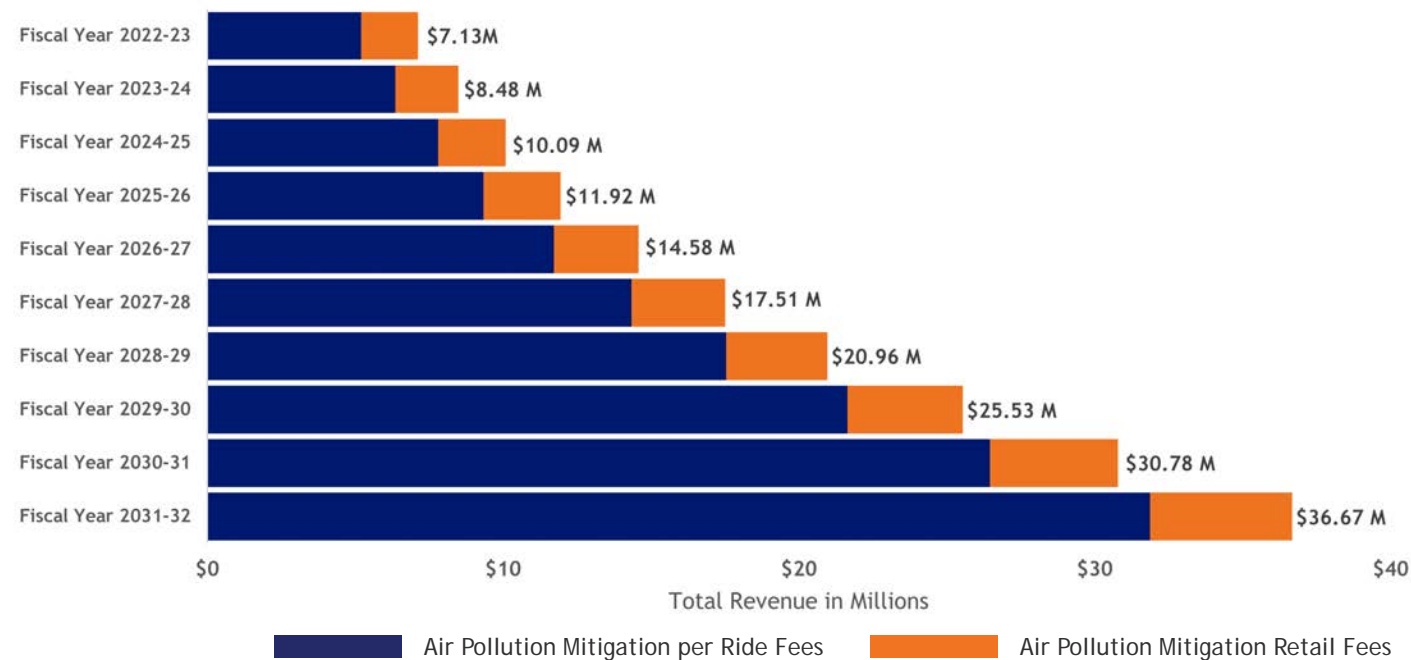
10 Year Anticipated Funding and Spending Forecast

As noted in previous sections of this plan, the enterprise is funded by two fees, authorized by the Colorado General Assembly: The Air Pollution Mitigation per Ride Fee and the Air Pollution Mitigation Retail Delivery Fee. On April 14, 2022, the NonAttainment Enterprise Board of Directors completed a formal rulemaking process, setting the levels for each fee starting on July 1, 2022. The adopted fees levels for July 2022 through June 2023 are:

- Eleven and ¼ cents for each prearranged ride that is a carshare ride or for which the driver transports the rider in a zero emissions motor vehicle;
- Twenty-two and ½ cents for every other prearranged ride.
- Seven-tenths of one cent per retail delivery.

From these fees, anticipated revenues for the first year are expected to exceed \$7.1 million, including \$5.2 million from the prearranged ride fee and \$1.9 million from the retail delivery fee. Throughout the next ten years, as the fee levels adjust for anticipated inflation rates and taking into account factors such as population growth and increased usage of services, the total amount of fees anticipated to be collected by the enterprise will exceed \$183 million, including \$152 million from the prearranged ride fee and \$31 million from the retail delivery fee. Anticipated revenue levels per year over the next ten years are outlined in Figure 7.

FIGURE 4: ANTICIPATED 10 YEAR REVENUE FROM AIR POLLUTION MITIGATION FEES



Anticipated 10 year revenue from the **Air Pollution Mitigation per Ride Fee (\$152 million)** and the **Air Pollution Mitigation Retail fee (\$31 million)** will total nearly **\$184 million.**

Proposed Spending Forecast

Based on this anticipated revenue, this plan provides a proposed spending forecast. The spending forecast will serve as a guide for annual planning of resources, anticipating the amount of funding needed for the Enterprise’s major budget categories:

- **Programing and Projects**
- **Enterprise Administration and Operations;**
- **Debt Service; and**
- **Enterprise Reserves.**

The spending forecast was developed based on anticipated needs for enterprise operations, debt service, and reserves, with the balance of funding allocated to projects funded by the enterprise.

Programming and Projects will be the primary category for the enterprise to fulfill its business purpose and fund projects within Colorado’s nonattainment areas within at least one of the enterprise’s three funding focus areas.

Enterprise operations estimates were produced based on current year (2022) staff levels, anticipated staff support from other state agencies, and support from professional consultants/contractors for services to carry out its business purpose. Unused revenue for enterprise operations will be transferred to the Programming and Projects in the next fiscal year.

Debt service, anticipated for one year only, will repay to CDOT a loan that allowed the enterprise to function before the collection of revenue.

Enterprise reserve are allocated for anticipated contingency purposes, as directed by the Enterprise Board. Any fees in reserve for contingency purposes will not exceed \$200,000. This reserve fund will only have allocations in future fiscal years to bring the fund back to the reserve ceiling amount of \$200,000.

FIGURE 5: THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE’S SPENDING FORECAST PLAN - JUNE 2022

LINE ITEM	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 10	YEAR 10
	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	FY 2029-30	FY 2030-31	FY 2031-32
TOTAL REVENUE	\$7,125,226.00	\$8,481,351.00	\$10,094,332.00	\$11,923,095.00	\$14,584,946.00	\$17,507,659.00	\$20,961,754.00	\$25,527,355.00	\$30,776,587.00	\$36,665,817.00
Air Pollution Mitigation per Ride Fee	\$5,193,149.00	\$6,350,348.00	\$7,799,651.00	\$9,325,133.00	\$11,713,055.00	\$14,330,228.00	\$17,528,868.00	\$21,626,892.00	\$26,448,435.00	\$31,857,744.00
Air Pollution Mitigation Retail Delivery Fee	\$1,932,077.00	\$2,131,003.00	\$2,294,681.00	\$2,597,962.00	\$2,871,891.00	\$3,177,431.00	\$3,432,886.00	\$3,900,463.00	\$4,328,152.00	\$4,808,073.00
NONATTAINMENT AREA AIR POLLUTION ENTERPRISE - REVENUE ALLOCATION										
Programming & Projects	\$6,622,144.02	\$8,255,433.00	\$9,866,066.62	\$11,692,400.08	\$14,351,736.51	\$17,271,846.93	\$20,723,248.25	\$25,286,061.30	\$30,532,407.77	\$36,418,651.25
Administration & Operations	\$226,650.00	\$225,918.00	\$228,265.38	\$230,694.92	\$233,209.49	\$235,812.07	\$238,505.75	\$241,293.70	\$244,179.23	\$247,165.75
Debt Service	\$76,431.98	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00
Contingency Reserve	\$200,000.00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00	\$- .00
TOTAL - NAAPME	\$7,125,226.00	\$8,481,351.00	\$10,094,332.00	\$11,923,095.00	\$14,584,946.00	\$17,507,659.00	\$20,961,754.00	\$25,527,355.00	\$30,776,587.00	\$36,665,817.00

Note: This spending forecast is preliminary and actual revenue allocation will be determined by the enterprise’s board, through the adoption of an official budget for the enterprise before the start of each state fiscal year. This above forecast in Figure 7 is used for planning purposes only. It does not reflect actual allocations of enterprise revenue.



Enterprise Funding Focus Areas & Project Selection

At this early stage of the Enterprise's work, specific projects have not yet been identified. Instead the Board has focused on seeking public input on the types of projects that would support the three funding focus areas outlined in the legislation.

More specific requirements will be developed by the enterprise Board of Directors as it develops the first year program.

The three funding focus areas are:



Sustainably reduce traffic congestion



Reduce the environmental and health impacts of transportation



Improve neighborhood connectivity for communities adjacent to highways



Photo Credit: RFTA



Sustainably Reduce Traffic Congestion

Reducing traffic congestion is one of the key provisions within the enterprise's purpose. However, to fulfill the objectives of other funding focus areas, this must be done in a sustainable manner.

Within this funding category, the enterprise will focus on projects that provide alternatives to single occupancy travel including transit services, active transportation alternatives, and carpool alternatives, as well as roadway operations improvements that sustainably reduce congestion, such as traffic incident management.

Examples include:



- Expanding interregional transit services, like Bustang;
- Development and expansion of bus rapid transit services;



- Construction of Mobility Hubs, destinations for transit services that connect interregional and local services, including first and last miles services, electric vehicle charging, and bike parking;



- New and expanded sidewalks and bike paths; and
- New and expanded vanpool, carpool, and other services for commuter travel.



Reduce Environmental & Health Impacts of Transportation

As noted previously in this plan, transportation is one of the main contributors to ozone pollution. Additionally, transportation is the largest contributor of greenhouse gas emissions in both Colorado and nationwide.

This funding focus area focuses on reducing impacts from the construction and ongoing operation of transportation projects.

Examples include:



- Measures that would reduce the impact of large highway construction projects;
- Retrofitting construction equipment for highway projects;
- Air quality monitoring for larger highway construction projects; and
- Roadside vegetation barriers.



Improve Neighborhood Connectivity of Communities Adjacent to Highways

The purpose of this funding focus area is to fund mitigation measures that help reconnect communities and provide multimodal options to move along and across large urban corridors.

Examples would include:



- More sidewalks and bike paths along major corridors and local roads;
- Safer bike and pedestrian connectivity along busy urban streets; and
- Projects that reduce traffic speeds along busy urban streets.



Project & Program Selection

In order to allow the maximum flexibility for the selection of specific projects and/or programs for the NAAPME Board of Directors to fund with enterprise revenue, specific requirements and prioritization criteria will be developed by the Board during the first year of revenue collection, and reviewed on an annual basis. This will be made publicly available on the enterprise's website and broadcast at future public outreach activities.

At a minimum, projects funded by the Nonattainment Enterprise must demonstrate the following:

- **The location of the project and/or program must be located within the nine county ozone nonattainment area.**

If there is a determination that a new county or area within Colorado has fallen into nonattainment for any of the criteria pollutants as identified by the EPA, they will become eligible for project and/or program funding.

Any area that upgrades to maintenance status that is currently in nonattainment for ozone (as of June 2022), will no longer be eligible for future projects and/or programs, but will be allowed to continue projects and/or programs that are in progress when the determination is finalized.



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Cherry Creek Trail

Public Outreach for the 10 Year Plan

The Enterprise initiated outreach activities in February 2022 with the opening of public comment on the rulemaking establishing fees levels for both the prearranged ride fee and the retail delivery fee. Rulemaking concluded on April 14, 2022 with the incorporation of adjustments to the rule based on public feedback and adoption of the rule by the Board of Directors.

During this time, the enterprise established its online presence, which included:

- A website providing information on the Enterprise and access to all meeting materials;
- Establishment of an email address to contact enterprise staff directly;
- Establishment of an email subscription service to allow interested parties to receive updates when new information is available; and
- Release of a short video outlining the purpose of the enterprise, anticipated revenues, and directing viewers towards avenues to provide feedback at the start of May 2022, with a Spanish language version of the video coming soon.

Additionally, all Board of Directors meetings were live streamed on the Youtube platform. Recordings of these meetings, in addition to meeting minutes, were made available on the Enterprise’s website within one week after its occurrence and as required under Colorado statute.



NAAPME’s Public Outreach Survey received **181 responses** and **95 public comments**



To help the Board of Directors and enterprise staff understand stakeholder and community needs, the enterprise conducted the following activities throughout May 2022 to solicit public comment on the funding focus areas outlined in the 10-year plan and how they would prioritize specific examples within each funding focus area.

Outreach activities included:

- Presentations to the Statewide Transportation Advisory Committee and the DRCOG and NFRMPO Technical Advisory committees, to help notify local government officials about the enterprise and its public outreach programs;
- Public outreach survey, which allowed users to rank project examples within each funding focus area and provide comments on the proposed focus areas;
- Virtual Public Listening session (held May 17), providing information on the enterprise’s purpose and soliciting comment on the funding focus areas; and
- Spanish translation of both the survey and listening session.

Public Outreach Survey Results

NAAPME’s public outreach survey asked respondents to rank their preferred project types for each of NAAPME’s three funding focus areas. Below are the project types ranked from most popular to least.

Sustainably Reduce Traffic Congestion

- Expand Van Pools & Car Pools
- Expand Bustang
- Build More Bike Trails & Sidewalks
- Establishing Mobility Hubs
- Bus Rapid Transit

Reduce Environmental & Health Impacts of Transportation

- Air Quality Monitoring for Highway Projects
- Construction Equipment Retrofit
- Roadside Vegetation Barriers
- Mitigation of Construction Impacts

Improve Neighborhood Connectivity of Communities

- Projects that Slow and Calm Traffic
- Build More Bike Trails & Sidewalks
- More and Safer Bicycle and Pedestrian Connectivity

Enterprise Reporting & Next Steps

The enterprise and its Board of Directors are committed to transparency and accountability throughout its work.

Public Accountability Dashboard

Starting in the next state fiscal year, the Enterprise will begin to develop its Public Accountability Dashboard, which will provide regular updates on the progress of its program, including total revenue collected, revenue allocated to projects and programs, expenditures and completion of funded projects, and anticipated air pollution mitigation benefits.

Annual Report

An annual report, mirroring the information that will populate the Public Accountability Dashboard, will be published in June at the end of each state fiscal year. This report will be presented to the Colorado Transportation Commission, the Colorado House of Representatives Transportation and Local Government Committee and the Colorado Senate Transportation and Energy Committee.

Public Outreach Activities

The Board of Directors will discuss and approve future public outreach activities throughout the next fiscal year, which will solicit public comment on project selection and prioritization requirements, community needs, and other topics of interest to fulfill the business purpose of the Enterprise and help inform updates to the 10-year plan.

Annual 10-Year Plan Updates

Initial adoption of the 10-year plan by the Enterprise Board of Directors on June 23, 2022. The 10-year plan will be updated as projects are funded and implemented. This plan was developed with a particular eye towards uncertainty associated with the new revenue source.





COLORADO

Department of Transportation

Nonattainment Area Air Pollution
Mitigation Enterprise

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