

FUELS IMPACT ENTERPRISE

ARTICLES OF ORGANIZATION

PREAMBLE

The General Assembly of the State of Colorado (the “State”) found and declared in C.R.S. § 43-4-1501 (1)(a)(I) that:

(A) Certain communities in the state serve as the distribution points for almost all of the fuel transported in the State;

(B) Licensed fuel distributors rely on the hazardous mitigation corridor infrastructure in these communities to support the economic functions of the State; and

(C) Increasing requirements on fuel composition and blends will cause the infrastructure in these communities to be relied upon even more.

(II) Therefore, the General Assembly found it appropriate to establish the fuels impact reduction grant program to provide grants to those communities for the improvement of their hazardous mitigation corridor infrastructure and for projects related to the transportation of fuel within the State.

Therefore, in C.R.S. § 43-4-1501(b), the General Assembly established the Fuels Impact Enterprise to assist in the administration of the programs described and to collect the fees necessary to implement these programs.

The General Assembly thereupon created and expanded in C.R.S. § 43-4-1503(1)(a) a fuels impact enterprise as a government-owned business in the Colorado Department of Transportation (the “Department”).

Article I. Name

The fuels impact enterprise created in C.R.S. § 43-4-1503(1)(a) shall be known as the FUELS IMPACT ENTERPRISE ("Enterprise").

Article II. Authority

The Colorado Legislature approved the creation of the Fuels Impact Enterprise during its regularly scheduled session in 2023, and Senate Bill 23-280 was signed into law by the Governor of the State of Colorado on June 6, 2023. The Enterprise shall function pursuant to these Articles of Organization until such time as it may be abolished by a specific action under applicable Colorado state law.

Article III. Purpose

The business purposes of the Enterprise are to improve the transportation of fuel in the State and monitor vehicle emissions. To accomplish this purpose, the Enterprise may impose a fuels impact reduction fee; issue grants as authorized by C.R.S. § 43-4-1506; and issue revenue bonds payable from the fee revenue and other money available to the Enterprise.

Article IV. TABOR Exemption

As provided in Section 43-4-1503(3), C.R.S., the Enterprise shall constitute an “enterprise” for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to Section 43-4-1503(3), C.R.S., the Enterprise shall not be subject to any provisions of section 20 of article X of the state constitution.

Article V. Enterprise Board and Enterprise Director

The Transportation Commission of Colorado (“the Commission”) shall serve as the Enterprise Board (“Board”) and shall, with the consent of the Executive Director of the Department, appoint a director of the Enterprise (the “Enterprise Director”) who shall possess such qualifications as may be established by the Commission and the State personnel board.

The Enterprise Director shall oversee the discharge of all responsibilities of the Enterprise and shall serve at the pleasure of the Board.

The Enterprise and the Enterprise Director shall exercise their powers and perform their duties as if the same were transferred to the Department by a **type 2** transfer, as defined in section 24-1-105, C.R.S.

Article VI. Officers

The officers of the Enterprise shall be elected according to the Bylaws of the Board and shall have the duties set forth in the Bylaws.

Article VII. Powers

The Enterprise may:

- (a) Impose a fuels impact reduction fee as authorized in Section 43-4-1505(1), C.R.S.;
- (b) Issue grants as authorized by the fuels impact reduction grant program created in Section 43-4-1506, C.R.S.;
- (c) Issue revenue bonds payable from fuels impact reduction fee revenue and other available money of the enterprise as authorized in Section 43-4-807, C.R.S.; and

In addition to any other powers and duties specified in Section 43-4-1505, C.R.S., the Board also has the following powers and duties:

- (a) To supervise and advise the Enterprise director;
- (b) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (c) To issue revenue bonds, payable from the fuels impact reduction fee and other available money of the enterprise, to achieve the purposes of improving the transportation of fuel and monitoring vehicle emissions in the State;
- (d) To acquire, hold title to, and dispose of real and personal property as necessary in the exercise of its powers and performance of its duties;
- (e) To employ and supervise individuals, professional consultants, and contractors as are necessary in its judgment to carry out its business purposes;
- (f) To contract with any public or private entity, including state agencies, consultants, and the attorney general's office, for professional and technical assistance, office space and administrative services, advice, and other services related to the conduct of the affairs of the Enterprise;
- (g) To seek, accept, and expend gifts, grants, donations, or other payments from private and public sources, so long as the total amount of all grants from the state of Colorado and local governments received in any state fiscal year is less than ten (10) percent of the Enterprise's total annual revenue for the state fiscal year;
- (h) To set and adopt, on an annual basis, a budget for the Enterprise;
- (i) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers and duties granted in Section 43-4-1501 *et seq.*, C.R.S.

Article VIII. Revenues and Expenditures

The fuels impact enterprise cash fund has been created in the state treasury pursuant to C.R.S. § 43-4-1504(1)(a)(I). The fund consists of fuels impact reduction fee revenue credited to the fund pursuant to Section 43-4-1505(1), C.R.S., any money that the General Assembly may transfer or appropriate to the fund for the implementation of the grant program described in Section 43-4-1506, C.R.S., and any federal money or gifts, grants, or donations received. The state treasurer shall credit to the fund all interest and income derived from the deposit and investment of money in the fund. Money in the fund is continuously appropriated to the Enterprise for the purposes set forth in C.R.S. § 43-4-1501 *et seq.* and to pay the Enterprise's reasonable and necessary operating expenses, including the repayment of any loan received pursuant to C.R.S. § 43-4-1504(2).

The Department may transfer money from any legally available source to the Enterprise for the purpose of defraying expenses incurred by the Enterprise before it receives fee revenue or revenue bond proceeds. The Enterprise may accept and expend any money so transferred, and notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer is a loan from the Department to the Enterprise that is required to be repaid and is not a grant for purposes of section 20(2)(d) of article X of the state constitution or as defined in C.R.S. § 24-77-102(7). All money transferred as a loan to the Enterprise shall be credited to the fuels impact enterprise cash fund in the state treasury. Loan liabilities that are recorded in the fuels impact fund but that are not required to be paid in the current fiscal year shall not be considered when calculating sufficient statutory fund balance for purposes of C.R.S. § 24-77-102(7). As the Enterprise receives sufficient revenue in excess of expenses, the Enterprise shall reimburse the Department for the principal amount of any loan made by the Department plus interest at a rate set by the Department.

Article IX. Articles of Organization--Amendment

The Board may amend, supplement, or repeal these Articles of Organization or adopt new Articles of Organization. All such changes shall affect and be binding upon the Enterprise, the Board and the Members heretofore, as well as hereafter, authorized. Any amendment, supplement or repeal of these Articles of Organization or adoption of new Articles of Organization shall require a majority vote of the Members at any regular meeting of the Board.

Article X. Bylaws

The Board shall adopt a set of Bylaws to govern its internal operations and procedures.