

2023

Regulatory Agenda



COLORADO
Department of Transportation

Overview of Regulatory Agenda Requirements

The Colorado Department of Transportation submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2023. The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes Colorado Department of Transportation's DRA for 2023 and is provided in accordance with Colo. Rev. Stat. §24-7-203(4).

Schedule (month)	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? X if yes	Purpose	Stakeholders	Anticipated Hearing Date
Jan.	2 CCR 601-1A, State Highway Access Category Assignment Schedule	Revision	§ 43-2-147 and § 43-1-106(8)(k), C.R.S.	No	The rule is being revised to update Access Category Classifications as a result of new additions and abandonments in the State Highway System.	The Department is working with: (1) Local Jurisdictions, (2) Metropolitan Districts; (3) Transportation Management organizations and associations; and (4) the Statewide Transportation Advisory Committee.	January/February 2023
Feb.	2 CCR 601-21, Law Enforcement Assistance Fund (LEAF) rules	Revision	§ 43-4-403, C.R.S.	Yes	The purpose of the rulemaking will be to conduct a review to assess the continuing need for, appropriateness and cost effectiveness of the program’s rules as mandated by statute. The assessment will determine whether the rules should be continued in their current form, modified or repealed. This will include reviewing and revising the administrative rules regarding Statement of Basis and Purpose, Authority, Definitions, Application Requirements and Procedures, and Fiscal Accounting Requirements. The rule may be updated to meet current formatting and accessibility standards	The Department will work with the following stakeholders: (1) Local Governments, (2) Colorado State Patrol, and (3) Previous recipients of LEAF funds, including law enforcement.	Spring 2023
Mar.	2 CCR 605-1, Colorado State Infrastructure Bank rules	Revision	§ 43-1-105(6) and § 42-20-205, C.R.S	Yes	The purpose of the rulemaking will be to conduct a review to assess the continuing need for, appropriateness and cost effectiveness of the program’s rules as mandated by statute. The assessment will determine whether the rules should be continued in their current form, modified or repealed. This will include reviewing and revising the administrative rules regarding Statement of Basis and Purpose, Authority, Definitions, Eligibility Requirements, Application Procedures, Review Procedures, and Repayment of Loan Requirements. The rule may be updated to meet current formatting and accessibility standards.	The Department will work with the following stakeholders: (1) Current and previous recipients of SIB loan funds; and (2) Other potential stakeholders who may apply for SIB loans in the future.	Spring 2023

Schedule (month)	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? X if yes	Purpose	Stakeholders	Anticipated Hearing Date
Apr.	2 CCR 601-22, Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions	Revision	§ 43-1-106(8)(k) and § 43-1-1103(5), C.R.S.	No	This rule, adopted just last year, is not only a first for Colorado, but for the nation. As such, we expect minor revisions to the rule in 2023 to improve clarity and clarify intent during the rule's implementation.	The Department will work with the following stakeholders: (1) environmental organizations; (2) the Statewide Transportation Advisory Committee; and (3) approximately 1,000 stakeholders who participated in the 2021 rulemaking.	Summer 2023

Report on the 2022 Regulatory Agenda



Overview

Pursuant to Colo. Rev. Stat. § 2-7-203(4), the Colorado Department of Transportation submits its Report on the 2022 Regulatory Agenda. Pursuant to statutory requirements concerning the Department’s Regulatory Agenda, this Report on the 2022 Regulatory Agenda details the results of the past year’s rules review activity, including the results of mandatory rule reviews conducted under Colo. Rev. Stat. § 24-4-103.3(4) as part of the Department’s “Regulatory Efficiencies Reviews”.

This report includes the following items:

- “Rulemaking included in 2022 Regulatory Agenda” providing a status of the rules reviewed (see “Table 1”);
- “Results of Mandatory Rules Review” providing a summary of the activities and outcomes associated with this review under Colo. Rev. Stat. § 24-4-103.3(4) (see “Table 2”); and
- “Unplanned Rulemaking” summarizing rule activity that was neither part of mandatory regulatory efficiency review nor part of the Regulatory Agenda (see “Table 3”).

Table 1: Rulemaking Included in 2022 Regulatory Agenda

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
2 CCR 601-1A	State Highway Access Category Assignment Schedule	Revision	§ 43-2-147 and § 43-1-106(8)(k), C.R.S.	The rule is being revised to update Access Category Classifications as a result of new additions and abandonments in the State Highway System.	The Department is working with: (1) Local Jurisdictions, (2) Metropolitan Districts; (3) Transportation Management organizations and associations; and (4) the Statewide Transportation Advisory Committee.	Notice of rulemaking will be filed in late 2022 or early 2023	Anticipated January or February 2023	
2 CCR 601-17	Implementation of the Use of Waste Tires for Noise Mitigation Purposes along Colorado State Highways	Revision	§ 43-2-401, § 43-2-404, C.R.S.	The rule was reviewed for efficiency and effectiveness. It was determined that the rule will require updates in the future; however, the Federal Highway Administration is in the process of updating federal regulations governing noise, so the Department will defer rulemaking for now and place this rule on its 2024 Regulatory Agenda.	The Department worked with the following stakeholders: the Federal Highway Administration.	Postponed until 2024	n/a	The Colorado Department of Transportation decided to postpone this rulemaking proceeding until 2024.

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
Rule 910 in 2 CCR 601-4, Rules Pertaining to Transport Permits for the Movement of Extra-Legal Vehicles or Loads	Hours of Operation and Restrictions	Revision	§ 42-4-505 and § 42-4-511(1), C.R.S.	This rule was removed through the Department’s March 30, 2020 emergency rulemaking and removed the prohibition of operation of Longer Vehicle Combinations (“LVCs”) in three metropolitan areas during rush hour times.	The Department will continue to work with the Colorado Motor Carrier Association, the Colorado State Patrol, and the Federal Highway Administration.	Postponed	n/a	Upon review, the Department determined that the continuation of supply chain issues and the absence of a demonstrated need for the reinstatement of Rule 910 supports a decision to defer reinstatement. The Department will reassess the need for this rule as necessary.

Table 2: Results of Mandatory Rules Review

Schedule (month reviewed)	Rule Number	Rule Title (or Brief Description)	Statutory or other basis for adoption of rule	Did review result in revisions to regulation?	Did review result in repeal of any part of the regulation? If so, how many rules?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)	Comments (optional)
May 2022	2 CCR 601-17	Implementation of the Use of Waste Tires for Noise Mitigation Purposes along Colorado State Highways	§ 43-2-401 and § 43-2-404, C.R.S.	The rule was reviewed for efficiency and effectiveness. It was determined that the rule will require updates in the future; however, the Federal Highway Administration is in the process of updating federal regulations governing noise, so the Department will defer rulemaking for now and place this rule on its 2024 Regulatory Agenda.	No	No	N/A	As required by state law, the Department on behalf of the Transportation Commission of Colorado (“Commission”) initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the rule. The review also assessed whether the rule should be continued in its current form, amended or repealed. The Federal Highway Administration is planning to update its noise guidance. Due to the fact that this update may affect this rule, it was decided that this rule should remain unchanged in 2022 and should be reconsidered for review in 2024.

Table 3: Unplanned Rulemaking

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
2 CCR 607-1	Rules Governing Clean Transit Enterprise Processes and Fees	NEW	§ 43-4-1203(6)-(8), C.R.S.	The purpose of these rules is to impose the Clean Transit Retail Delivery Fee and to govern the process for providing grants, loans, and rebates.	The Department worked with the following stakeholders: (1) CASTA; (2) Colorado Retail Council; (3) Transit Agencies; and (4) other state agencies.	Adopted	Adopted 04/12/2022 Effective 06/14/2022	This rulemaking resulted from the passage of SB 21-260 and the creation of the Clean Transit Enterprise. The legislation required the Clean Transit Enterprise to promulgate rules to set the Retail Delivery Fee at a maximum amount of three (3) cents and to describe the process to govern grants, loans, and rebates.
2 CCR 608-1	Rules Governing Nonattainment Area Air Pollution Mitigation Enterprise Fees	NEW	§ 43-4-1303(6)-(8), C.R.S.	The purpose of these rules is to impose the Air Pollution Mitigation Retail Delivery Fee and the Air Pollution Mitigation Per Ride Fee.	The Department worked with the following stakeholders: (1) Transportation Network Providers; (2) Colorado Retail Council; (3) MPOs in the Nonattainment Area; (4) conservation/environmental groups in the Nonattainment Area; (5) and other state agencies.	Adopted	Adopted 04/14/2022 Effective 06/14/2022	This rulemaking resulted from the passage of SB 21-260 and the creation of the Nonattainment Area Air Pollution Mitigation Enterprise. The legislation required the Enterprise to promulgate rules to set the Retail Delivery Fee at a maximum amount of seven-tenths of one cent and the Per Ride Fee at a maximum amount of either 11 ¼ cents or 22 ½ cents based on the type of ride.

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Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
2 CCR 606-1	Rules Governing the Administrative Toll Enforcement Process	Revision	§ 43-4-806(11) and § 43-4-808(2)(d), C.R.S.	This rule allows enforcement of toll evasion violations on the Peak Period Shoulder Lanes on I-70 and establishes that swerving or weaving between a managed lane and a general lane constitutes toll evasion.	The Department worked with the following stakeholders: (1) Colorado Motor Carrier Association; (2) Federal Highway Administration; (3) local governments; and (4) Colorado State Patrol.	Adopted	Adopted 06/15/22 Effective 08/14/2022	This rulemaking resulted from the passage of HB 22-1074. In addition to allowing for enforcement of toll violations on managed shoulder lanes and for weaving, the rule allows for the Enterprise to entertain petitions for declaratory orders and makes other minor, non-substantive changes.
2 CCR 601-22	Rules Governing Statewide Transportation Planning Processes and Transportation Planning Regions	Revision	§ 43-1-1103 (5), and § 43-1-106 (8)(k), C.R.S.	The purpose of this emergency rulemaking was to add specificity about the types of funds that could be restricted upon noncompliance with the October 1, 2022 deadline in Rule 8.02.5.1. The purpose of the permanent rulemaking was to make the emergency change permanent and make other minor changes to make the rule easier to read and understand by the public.	The Department worked with the following stakeholders: (1) environmental organizations; (2) the Statewide Transportation Advisory Committee; and (3) 1,000 stakeholders who participated in the 2021 rulemaking	Adopted	Emergency Rule adopted 07/21/2022 Permanent Rule Adopted 09/15/22 Effective 10/30/22	This rulemaking resulted from conversations with Metropolitan Planning Organization stakeholders and other transportation planning partners. In response to stakeholder requests during outreach, the Department and the Transportation Commission added a requirement for a rural Transportation Planning Region Chair to be appointed to the State Interagency Consultation Team. The rulemaking also incorporated non-substantive changes recommended by OLLS and staff.