

NFRMPO Planning Council July 1, 2021 Meeting

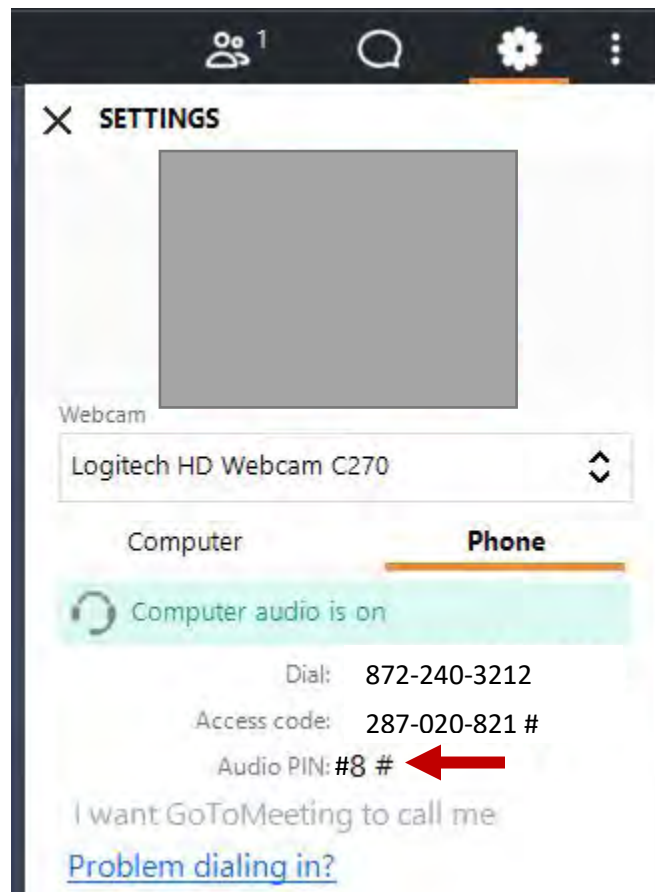
Remote Attendee Instructions

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- 1) Call-in Number: **(872) 240-3311**
- 2) Once prompted, enter the Access Code: **784-815-789**
- 3) Once you have entered the conference call, **please mute your line. PLEASE DO NOT VERBALLY ANNOUNCE YOURSELF.** There will be a rollcall during the meeting and if you arrive late you will be asked for your name.

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- 1) Please mute your computer's sound to avoid feedback.
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- 4) Please use the Chat box function as shown below, to indicate that you wish to speak by typing in your name, for example:

"I have a question regarding the TIP Amendment"

and wait to be recognized by the Chair before proceeding with your question or comment, so others do not talk over you and your question can be recorded for the Minutes.

- 5) Each time you speak, **please state your name for the record** before proceeding with your question or comments.

If at any time during the meeting you have any questions or technical difficulties accessing the meeting, please contact Alex Gordon at (970) 289-8279 or agordon@nfrmpo.org.

Denver Metro/North Front Range Area - 2021 8-Hour Ozone Summary*
Through 06/30/21

Monitor	Monitor	1st Max 2021	2nd Max 2021	3rd Max 2021	4th Max			2019-2021 Design Value [^]	2019-2021 Design Value excluding 2020 flagged days ⁺
					2021	2020	2019		
AURE	Aurora East	66 06/16/21	65 06/17/21	65 06/23/21	65 06/04/21	77	66	69	66
BHWK	Black Hawk	72 05/24/21	70 06/18/21	69 06/14/21	67 06/12/21	75	69	70	69
BOUR	Boulder Reservoir	85 06/15/21	77 03/20/21	75 06/10/21	73 06/14/21	76	69	72	72
CAMP	CAMP	72 06/15/21	65 06/12/21	64 06/14/21	63 06/22/21	74	67	68	65
CHAT	Chatfield State Park	76 06/22/21	73 06/12/21	72 06/18/21	69 06/15/21	83	78	76	74
EVG	Evergreen ¹	70 06/15/21	69 06/04/21	68 06/22/21	66 06/18/21	63			
FTC	Fort Collins - CSU	79 06/15/21	74 06/14/21	73 06/12/21	70 06/13/21	67	64	67	65
FTCW	Fort Collins - West	88 06/15/21	86 03/20/21	78 06/14/21	77 06/12/21	75	71	74	73
GRET	Greeley - Weld Tower	73 06/14/21	69 06/15/21	68 06/10/21	66 05/24/21	72	65	67	66
HLD	Highland	76 06/22/21	68 06/04/21	68 06/05/21	68 06/16/21	83	73	74	70
CASA	La Casa	78 06/10/21	76 06/15/21	76 06/12/21	70 06/17/21	78	65	71	68
NREL	NREL	93 06/15/21	89 06/10/21	82 06/08/21	77 06/12/21	87	75	79	77
PAO	Platteville Atmospheric Observatory ²	87 03/19/21	82 03/20/21	77 06/15/21	75 06/10/21	76			
RFN	Rocky Flats	94 06/15/21	81 06/10/21	81 06/14/21	77 06/12/21	84	72	77	75
RMNP	Rocky Mtn. Nat'l Park**	74 06/08/21	72 06/09/21	69 05/24/21	66 06/18/21	72	65	67	66
WBY	Welby	77 06/15/21	75 06/10/21	75 03/20/21	72 06/14/21	78	60	70	68

* Based on 8-hour averages of raw 1-hour ozone data from the [Colorado Department of Public Health and Environment \(CDPHE\)](#) through the [EPA AirNow API](#)

and consistent with [Data Reporting and Handling Conventions outlined in 40 CFR Part 50 - Appendix P.](#)

The form of the standard is in parts per million (ppm), however, values in this table are expressed in parts per billion (ppb) for simplicity.

Data is synced monthly with Air Pollution Control Division (APCD) monthly ozone summary with final quality assurance conducted by APCD at end of ozone season.

** Rocky Mountain National Park data from the NPS ozone monitor (<https://www.nature.nps.gov/air/monitoring/network.cfm>); synced monthly with APCD monthly ozone summary

[^] A "Design Value" is the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration for each monitor.

The "Regional Design Value" is the highest among monitors in the nonattainment area with valid design values.

⁺ Flagged Days are days in which ozone levels were not reasonably controllable or preventable.

¹ The Evergreen monitor started up August 26, 2020

² The Platteville Observatory started up June 11, 2020

	= 8-hour average ozone value exceeds 75 ppb 2008 standard
	= 8-hour average ozone value exceeds 70 ppb 2015 standard
	= 1st-4th highest 8-hour average for current (2020) ozone season

NOTES:

~~strikethrough~~ = CDPHE later reinstated values

^{^^} Negative number means the 4th highest maximum 8-hour average in 2015 must be below the 2014 4th highest by this amount. to attain the 2008 standard in 2015. (Ex. The 4th highest maximum daily 8-hour average in 2015 must be 9 ppb lower than the 4th highest maximum 8-hour average for 2014.

ETRP Prehearing Statement

NFRMPO Planning Council



North Front Range
Metropolitan
Planning
Organization

July 1, 2021

ETRP Updates and Schedule



North Front Range
Metropolitan
Planning
Organization

- NFRMPO applied for and received party status for the Air Quality Control Commission's (AQCC's) rulemaking hearing on the Employee Traffic Reduction Program (ETRP)
- 34 parties involved; most have concerns on ETRP
- Prehearing statement (required) is due July 9, 2021
- Rebuttal (optional) is due July 29, 2021
- Rulemaking hearing is scheduled for August 18-20, 2021

NFRMPO Positions



NFRMPO supports revising ETRP as follows:

1. Creating a voluntary employee traffic reduction program to promote emission reductions in the Denver Metro/North Front Range ("DM/NFR") Ozone Nonattainment Area ("NAA"). As a voluntary program, civil penalties could not be imposed for noncompliance with the regulation.
2. Creating tiered single occupancy vehicle ("SOV") Drive Rate requirements based on geographic location to improve the effectiveness and equity of the program.
3. Improving the inputs to the Economic Impact Analysis ("EIA") to obtain a more accurate estimate of the economic impact of ETRP.
4. Revising the regulation to address the limited applicability of ETRP strategies and alternative compliance approach(es) for certain employers.
5. Revising the regulation to improve definition and clarity.

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ETRP Prehearing Statement

Proposed SOV Tiers and Targets

NFRMPO Compromise Proposal

Tier Name	Number of Large Employers	Estimated Baseline SOV Rate	2023 SOV Rate Target	2025 SOV Rate Target
Downtown Boulder	19	65%	60%	55%
Downtown Denver	191	57%	52%	47%
Other Urban	2,296	77%	72%	67%
Rural	242	82%	77%	72%

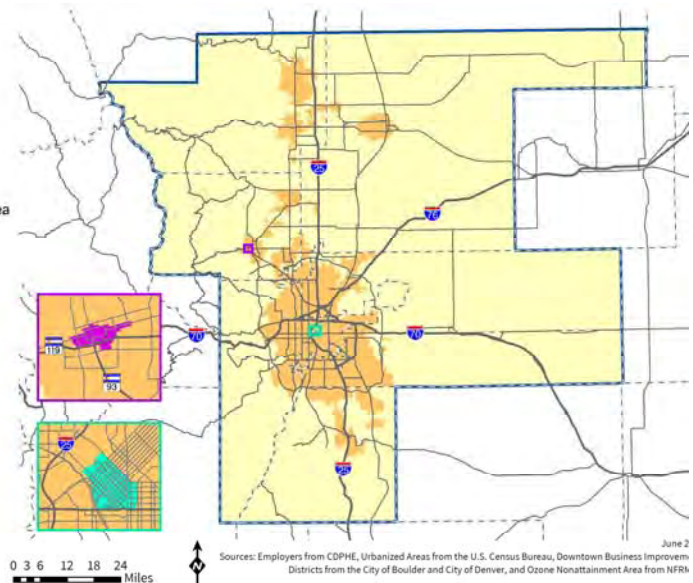
Division Proposal

	Number of Large Employers	Assumed Baseline SOV Rate	2023 SOV Rate Target	2025 SOV Rate Target
All Employers	2,748	100%	75%	60%

Legend

Tier Name

- Downtown Boulder
- Downtown Denver
- Other Urban
- Rural
- Ozone Nonattainment Area
- County Boundary



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Questions?



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**BEFORE THE AIR QUALITY CONTROL COMMISSION
STATE OF COLORADO**

IN THE MATTER OF PROPOSED REVISIONS TO REGULATION NUMBER 11,
REGULATION NUMBER 20, AND REGULATION NUMBER 22

**PREHEARING STATEMENT OF THE NORTH FRONT RANGE METROPOLITAN
PLANNING ORGANIZATION**

This Prehearing Statement is submitted through the undersigned on behalf of the North Front Range Metropolitan Planning Organization (“NFRMPO”) in connection with the above-captioned hearing and pursuant to C.R.S. §§ 24-4-101 *et seq.*; §§ 25- 7-101 *et seq.*; and 5 CCR 1001-1 “Department of Public Health and Environment, Air Quality Control Commission, Procedural Rules,” and the Filing Requirements for Parties circulated by the Air Quality Control Commission (“Commission”).

I. Executive Summary

A. Summary of Position

The NFRMPO appreciates the opportunity to participate in this rulemaking proceeding as a party. The NFRMPO is an association of local governments that plays an important regional role in planning the transportation system and selecting projects to receive state and federal transportation funding in the North Front Range, and in addressing related air quality planning requirements. The local governments consist of Berthoud, Eaton, Evans, Fort Collins, Garden City, Greeley, Johnstown, LaSalle, Loveland, Milliken, Severance, Timnath, Windsor, and portions of unincorporated Larimer County and Weld County. Through the NFRMPO, these local governments work cooperatively on many tasks, including collection, compilation, and analysis of data, creating awareness of and providing alternative transportation options, and developing socioeconomic and travel demand forecasts for long-range transportation and related air quality planning.

As described in this prehearing statement, the NFRMPO supports the following revisions to the Employee Traffic Reduction Program (“ETRP”) proposal in Regulation 22:

- Creating a voluntary employee traffic reduction program to promote emission reductions in the Denver Metro/North Front Range (“DM/NFR”) Ozone Nonattainment Area (“NAA”). As a voluntary program, civil penalties could not be imposed for noncompliance with the regulation.
- Creating tiered single occupancy vehicle (“SOV”) Drive Rate requirements based on geographic location to improve the effectiveness and equity of the program.

- Improving the inputs to the Economic Impact Analysis (“EIA”) to obtain a more accurate estimate of the economic impact of ETRP.
- Revising the regulation to address the limited applicability of ETRP strategies and alternative compliance approach(es) for certain employers.
- Revising the regulation to improve definition and clarity.

In addition to our specific concerns regarding the proposed rule, the NFRMPO anticipates the Proposed Rule and any alternate proposals may impact member local governments of the NFRMPO. Therefore, the NFRMPO has a vested interest in continuing to participate in the rulemaking process and appreciates the Commission’s consideration of our concerns.

B. Estimate of Time for Presentation

The NFRMPO estimates it will need a total of 45 minutes, with 30 minutes to present the testimony of the witnesses and present the exhibits listed below and 15 minutes for cross-examination and rebuttal.

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II. Factual and Legal Issues Regarding the ETRP Proposal

A. ETRP Should Be Voluntary, Not Mandatory

Around the country, many mandatory employee traffic reduction programs have been established only to be abandoned or outlawed due to concerns over ineffectiveness and excessive burden on employers.^{1,2,3} Due to the need to reduce ozone precursor emissions and greenhouse gas (“GHG”) emissions, it is important to learn from the failures and successes of previous ETRPs to design a long-lasting, effective program. Based on this history, the NFRMPO supports the creation of a voluntary ETRP that will be less burdensome to the State and employers, while providing cost-effective and tangible emission reductions.

1. A Voluntary ETRP is More Effective Than a Mandatory Program.

The ETRP literature is clear that successful and long-lasting ETRPs require the interest and support of employers. For example, Washington State officials attribute success with the Commute Trip Reduction (CTR) program in part to partner engagement, including among employers, who were involved in developing the State’s program and have representatives on the CTR Board.⁴ Involving employers in the development, implementation, and enforcement of program requirements helps build support among employers.⁵ Without such support, ETRPs are at higher risk to legal challenges such as the outlawing of mandatory employer-based programs in California in 1995 with Senate Bill (SB) 437, along with the risk of employers being less willing to contribute to the program’s success.

As noted in the Public Agency Guidance sponsored by the Federal Transit Administration and developed through the Transportation Research Board, “public agencies might be most successful in encouraging employer-based TDM if they

¹ Dill, J. (1998). Mandatory Employer-Based Trip Reduction: What Happened? *Transportation Research Record*, 1618(1), 103–110. <https://doi.org/10.3141/1618-12>.

² “H. Rept. 104-387 - EMPLOYER TRIP REDUCTION PROGRAMS.” (1995). Congress.gov, Library of Congress, <https://www.congress.gov/congressional-report/104th-congress/house-report/387>.

³ COMSIS Corporation, “Public Agency Guidance on Employer-Based TDM Programs and Employer Technical Memorandum Characteristics of Effective TDM Programs” 2002. TCRP Web Document 22 (Project B-4). http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_webdoc_22-a.pdf. See page II-3.

⁴ Cotton, K., Johnston, K., Leotta, K., and Stark, S. (2012). Washington State’s Commute Trip Reduction Program. TR News 281 July-August 2012. <http://www.ctrboard.org/library/CTR%20story%20for%20TR%20News.pdf>. See Page 32.

⁵ Dill, J. (1998). Mandatory Employer-Based Trip Reduction: What Happened? *Transportation Research Record*, 1618(1), 103–110. <https://doi.org/10.3141/1618-12>. See page 105.

encourage voluntary programs that emphasize positive employer and traveler motivations rather than command and control requirements that focus on public agency goals.”⁶

The NFRMPO reviewed the comments submitted during the Commission’s stakeholder engagement process, and based on this review, it is clear there is very little support among employers for a mandatory ETRP. Rather than mandating reductions from reluctant employers, many of whom will not realize economic gains of potential benefits such as reduced parking needs or increased employee retention, a voluntary program would support employers with the most to gain, providing co-benefits to stakeholders and more cost-effective emission reductions.

In addition, the State resources needed to implement and oversee a voluntary program will be reduced compared to the State resources needed to implement and oversee a mandatory program. Although the Division states that it does not “anticipate the need for additional resources to implement the proposed regulation,” it also recognizes the “potential need for additional staff time related to the implementation of this rule.” Initial EIA at 27. With approximately 2,748 large employers in the DM/NFR Ozone NAA becoming subject to this regulation and having only five to eight months following the scheduled adoption of the regulation to appoint an Employee Transportation Coordinator (“ETC”), develop an ETRP Plan, and begin surveying employees, there will be a substantial need for State support and resources to successfully launch the ETRP. Given existing resource and staffing constraints at the Division, the lack of dedicated resources and staff for the ETRP is alarming and provides additional support for converting the program to a voluntary approach.

2. The Commission Should Clarify Its Enforcement Approach in the Regulation.

During the stakeholder engagement process, Division staff stated the enforcement approach for ETRP is based on “compliance assistance” rather than penalizing employers. The proposed text appears to constitute a “compliance assistance” enforcement approach by requiring employers to revise and resubmit their ETRP plan if they do not achieve the required SOV Drive Rate. After failing to achieve the required SOV Drive Rate after three consecutive years, the employer must “evaluate” if the required reductions can be achieved through an alternative compliance approach in place of or in addition to the employer’s ETRP plan. The NFRMPO supports the “compliance assistance” enforcement approach as written.

However, the regulation is silent on the existence of punitive enforcement mechanisms that could be imposed for noncompliance with the ETRP regulation due to the authority granted to the Commission by the Colorado Revised Statutes. The Commission has broad latitude to impose civil penalties with fines up to a maximum of \$47,357 per day for noncompliance with Commission regulations under C.R.S. § 25-7-122(1)(b) (“Any person who violates any requirement or prohibition of an applicable

⁶ *IBID.*

emission control regulation of the commission . . . is subject to a civil penalty of not more than forty-seven thousand three hundred fifty-seven dollars per day for each day of the violation.”). While Division staff have stated the Commission does not intend to impose fines for noncompliance with the ETRP regulation, without written reassurance in the regulation itself, there remains substantial risk and uncertainty to employers subject to the rule. Accordingly, the Commission should expressly state in the regulation its intention to not impose fines for noncompliance with ETRP and provide the legal basis for such action under the Colorado Air Pollution Prevention and Control Act in the Statement of Basis.

3. Other Successful ETRPs Similar to the Division’s Proposal Do Not Impose Civil Penalties for Failure to Achieve Targets.

In the Statement of Basis, Specific Statutory Authority, and Purpose, the Division cited “27 programs like [its proposed ETRP] already working successfully throughout the United States.” Proposed Statement of Basis, Specific Statutory Authority, and Purpose, Part B, Section III: ETRP. Having reviewed the structure and enforcement mechanisms of these 27 ETRPs, which are listed in **Table 1**, the NFRMPO found that only five of these programs were similar to the Division’s proposal. All five of these programs have less stringent enforcement mechanisms than the proposed ETRP. The remaining programs are not by definition ETRPs or are subsidiaries to a single overarching program.

Of the 27 programs cited by the Division as successful mandatory ETRPs, six do not have any requirements for employers. Instead, these six programs require developers to achieve SOV reductions and/or implement transportation demand management (“TDM”) strategies, which is a different program structure than employer-based programs and has little to no bearing on the Division’s ETRP proposal.⁷

Of the remaining 21 employer-based programs, three are commuter benefits programs, which means they require employers to offer commuter benefits such as the employee-paid pre-tax benefit for transit or vanpools. These programs do not have SOV or vehicle miles traveled targets for employers, do not require ETRP plans, and are structured to provide cost-savings to employers, and therefore are not similar to the Division’s ETRP proposal.

Of the remaining 18 ETRPs, 14 programs stem from a single program: the State of Washington’s Commute Trip Reduction (“CTR”) program. The CTR program is a partnership among local governments, transit agencies, regional transportation planning organizations, the Washington State Department of Transportation, and the CTR Board, which includes representatives from large employers.⁸ This program is required in the

⁷ For additional information on the difference between developer- and employer-based programs, see page 108 of Dill, J. (1998). Mandatory Employer-Based Trip Reduction: What Happened? *Transportation Research Record*, 1618(1), 103–110. <https://doi.org/10.3141/1618-12>.

⁸ Cotton, K., Johnston, K., Leotta, K., and Stark, S. (2012). Washington State’s Commute Trip

Table 1. 27 Programs Cited as Successful by the Division

Jurisdiction	Program Name
Developer-based Trip Reduction Ordinances (TROs)	
Alexandria, VA	Transportation Management Plan Ordinance + Local Motion + Go Alex
Boston, MA	Transportation Access Plan Agreement (TAPA)
Boulder, CO	TDM Program/Trip Generation Requirements
Cambridge, MA	Parking and Transportation Demand Management Ordinance
Palo Alto, CA	Transportation Demand Management Ordinance
Saint Paul, MN	Travel Demand Management Ordinance
Commuter Benefits Programs	
Berkeley, CA	Tax Relief Act to Cut Commuter Carbon (TRACC) or Commuter Benefit Program
San Francisco, CA	Commuter Benefits Ordinance + Transportation Sustainability Program
Washington, DC	Commuter Benefits Ordinance + Commuter Connections
Subsidiary Programs	
Bellevue, WA	Commute Trip Reduction Ordinance
Burien, WA	Commute Trip Reduction Ordinance
Des Moines, WA	Commute Trip Reduction Ordinance
Issaquah, WA	Commute Trip Reduction Ordinance
Kent, WA	Commute Trip Reduction Ordinance
King County, WA (unincorporated)	Commute Trip Reduction Ordinance
Kirkland, WA	Commute Trip Reduction Ordinance
Mercer Island, WA	Commute Trip Reduction Plan Ordinance
Redmond, WA	Commute Trip Reduction Ordinance
Seattle, WA	Commute Trip Reduction Program
Shoreline, WA	Commute Trip Reduction Plan Ordinance
Snohomish County, WA	Commute Trip Reduction Ordinance
Tukwila, WA	Commute Trip Reduction Plan Ordinance
Distinct Employer-Based Trip Reduction Programs (ETRPs)	
Campbell, CA	Transportation Demand Management Ordinance
Massachusetts	Massachusetts Rideshare Regulation
Santa Cruz County, CA	Trip Reduction Ordinance
Santa Monica, CA	Transportation Demand Management Ordinance
Washington	Commute Trip Reduction Law + Commute Trip Reduction Efficiency Act

Reduction Program. TR News 281 July-August 2012.

<http://www.ctrboard.org/library/CTR%20story%20for%20TR%20News.pdf>

urban growth areas in the most congested parts of the state, which translates to the Greater Seattle area and a handful of other highly urban areas. Local governments in those areas are required to establish plans mandating major employers to reduce SOV commuting by employees, hence the existence of many local governments with CTR ordinances as required by state law. In sum, five of the 27 programs cited by the Division as successful ETRPs are in fact distinctly different programs. All five of these programs clearly state in the law that failure to meet the reduction target is not a violation and employers cannot be subject to enforcement provisions or fines for failure to achieve specified targets.

The Division's current proposal is more stringent than these five programs by preserving the ability of the Commission to impose fines up to \$47,357 per day for any type of noncompliance with the ETRP regulation, including failure to meet SOV Drive Rate requirements. As stated previously, the NFRMPO supports the creation of an entirely voluntary ETRP with no civil penalties. However, at a minimum, the regulation should be updated to specify civil penalties will not be imposed for failure to achieve a particular SOV Drive Rate.

B. The Division's Proposed One-Size-Fits-All SOV Drive Rate Requirement Is Not Equitable.

The Division's ETRP proposal requires a uniform, one-size-fits-all SOV Drive Rate reduction requirement that does not account for the diversity of available transportation infrastructure, surrounding land uses, and business needs for large employers throughout the DM/NFR Ozone NAA.

In the Proposed Statement of Basis, Specific Statutory Authority, and Purpose, the Division addresses whether the ETRP "establishes or maintains reasonable equity in the requirements for various sources" by stating:

*"ETRP applies equally to all subject large employers throughout the nonattainment area based on a set threshold of employees reporting to an employer's individual worksite(s). All affected employers are subject to the same requirements in the rule."*⁹

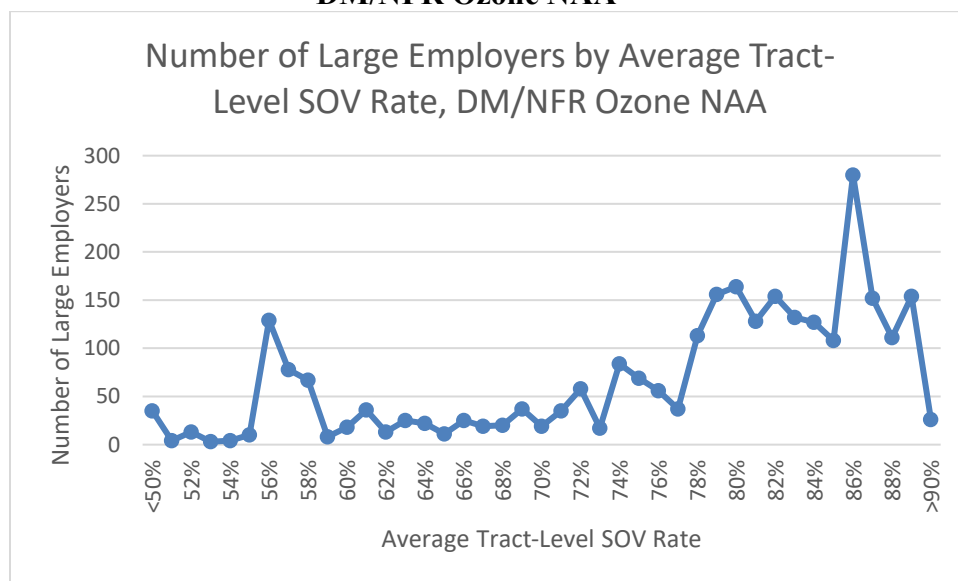
Proposed Statement of Basis, Specific Statutory Authority, and Purpose, Additional Considerations (emphasis added).

Establishing the same SOV Drive Rate requirement for all large employers does not provide reasonable equity when the baseline SOV Drive Rate varies substantially among employers, especially when the variation is generally due to reasons outside of the employer's control. As shown in **Figure 1**, there is substantial variation in employer SOV commute rates, as demonstrated by a histogram of the number of large employers

⁹ Colorado Air Quality Control Commission. 2021. Notice of Rulemaking Hearing Regarding Proposed Revisions to Regulation 11, Regulation 20, and Regulation 22: "Proposed Statement of Basis, Specific Statutory Authority, and Purpose" at Pages 7-8. Accessible at: https://drive.google.com/drive/u/0/folders/1dzobuHn3Qw5FQ5NWrJ_M9Y-o6huPnFvu.

by the average SOV commute rate among Census Tracts in the DM/NFR Ozone NAA.

Figure 1. Number of Large Employers by Average Tract-Level SOV Rate, DM/NFR Ozone NAA



Source: 2012-2016 Census Transportation Planning Products (CTPP), aggregated to Census Tracts based on employer locations

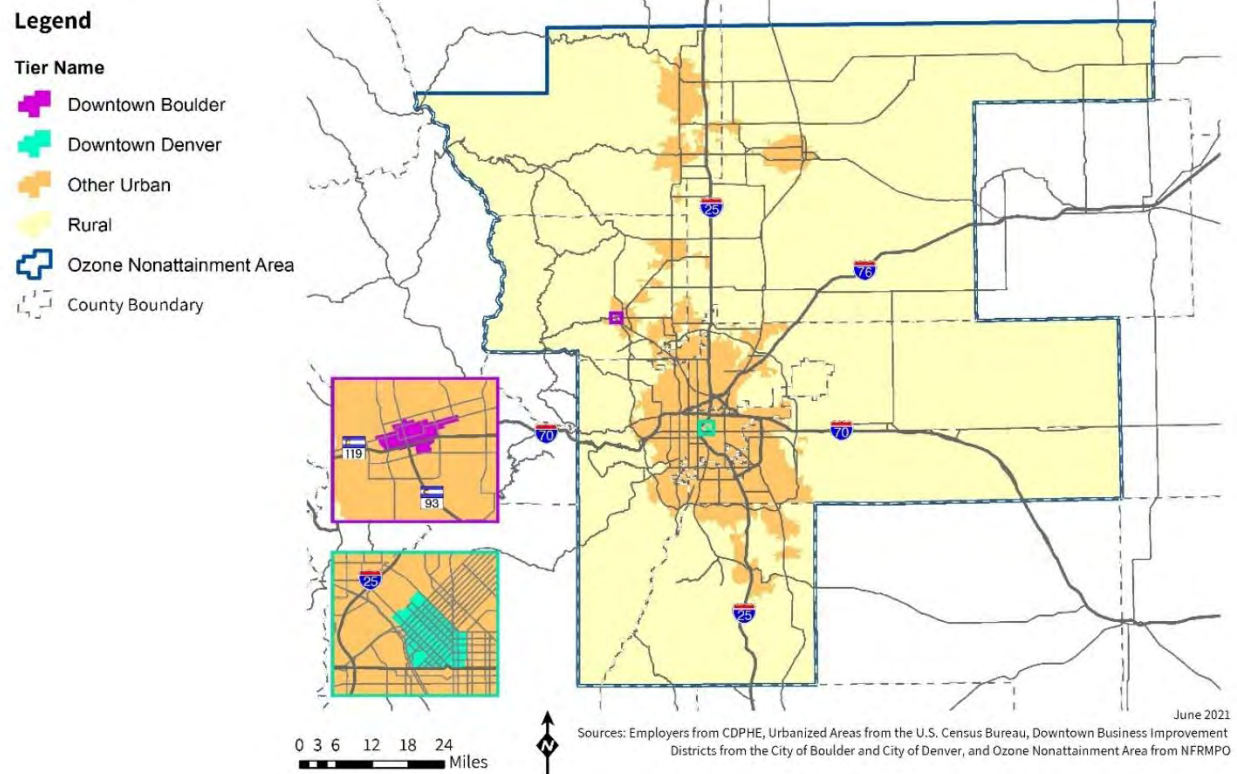
Within the DM/NFR Ozone NAA, 30 percent of large employers are in Census Tracts with an average SOV commute rate of 85 percent or higher. While the data only provides a window into the variation among large employers, since it is based on averages, the data indicates there is a substantial number of large employers who would need to reduce their SOV commute rate by at least 25 percentage points to achieve the SOV Drive Rate requirements in the regulation. Many of these employers are in suburban and rural locations without access to frequent transit service or extensive walk and bike infrastructure, making such reductions difficult and expensive.

In addition, 13 percent of large employers are in Census Tracts with an average SOV commute rate of 60 percent or less, indicating that many large employers already meet the proposed SOV Drive Rate requirement and therefore would be exempt from the ETRP regulation. Many of these employers are in downtown urban areas with access to a variety of ETRP strategies, and additional reductions from these employers are likely achievable. Exempting these employers from the rule results in a less effective ETRP regulation.

The NFRMPO proposes establishing tiered goals for the SOV Drive Rate based on geographic location of employers to improve the equity and effectiveness of the ETRP. Specifically, the tiers should be based on the variation and clustering observed in commute mode survey data for subareas of the DM/NFR Ozone NAA. The boundaries of the tiers proposed by the NFRMPO, as shown in **Figure 2**, are based on a statistical analysis of Census Tract level commute mode data adjusted to reflect the more

meaningful boundaries of the Urbanized Areas from the 2010 U.S. Census, the business improvement districts for Downtown Denver and Downtown Boulder, and the remaining rural areas of the DM/NFR Ozone NAA.

Figure 2. Proposed Geographies for the SOV Drive Rate Tiers



Setting achievable SOV Drive Rate targets within reasonable timeframes is critical for program success. If targets are set at unrealistic levels, many employers will be discouraged at the outset. In addition, many employers want to succeed and will be disappointed and discouraged when they are unable to achieve unrealistic targets after putting forth a good faith effort.

Based on a review conducted by the NFRMPO, achievable SOV rate reductions for regional ETRPs are likely between 2 and 5 percent with a generous upper limit around 10 percent. A report available on the website of the Regional Air Quality Council (RAQC) reviews performance for several ETRPs in the 2000s and 2010s, which shows the countywide and statewide ETRPs had SOV rate reductions ranging from percent to percent over timespans of five to 12 years.¹⁰ The two municipal ETRPs included in the report had higher SOV rate reductions, at 8 percent 15 percent over five and 11 years, respectively. All these programs were cited as successful ETRPs in the Division’s Statement of Basis, Specific Statutory Authority, and Purpose. According to earlier research on ETRPs implemented at a variety of government levels, “[m]ost of the

¹⁰ “Travel Demand Management Ordinances: Best Practices”, March 2021, [https://raqc.egnyte.com/dl/bZWhgJb3MO/Summary_TDM_success_\(2\).pdf](https://raqc.egnyte.com/dl/bZWhgJb3MO/Summary_TDM_success_(2).pdf)

published research in the 1990s agrees that employer trip reduction programs can reduce commute trips to worksites by 5 to 15 percent [see, for example, papers by Ewing and by Wachs and Giuliano (13,14)]."¹¹ The range of five to 15 percent includes municipal programs, which have greater potential for reductions than regional programs, likely due to higher density and more extensive transportation infrastructure for ETRP strategies in municipalities than in regional areas.

The NFRMPO proposal for SOV Drive Rate targets, displayed in **Table 2**, is more realistic and achievable than the Division's proposal for SOV Drive Rate requirements. In addition to listing the SOV Drive Rate targets for 2023 and 2025, **Table 2** displays the number of large employers, number of employees, and estimated baseline SOV rate in each of the four proposed tiers. While the NFRMPO proposal is more achievable than the Division's proposal, it is also ambitious by setting targets at five percentage points below the estimated baseline for each geographic tier by 2023 and by 10 percentage points below the baseline by 2025. The NFRMPO proposal retains the deadlines in the Division's proposal even though such substantial reductions to SOV rates within short timeframes is not clearly supported in the literature. One factor that may make the proposed targets and timeframes more achievable than suggested by the literature because the baseline SOV rates reflect pre-pandemic conditions and telework is now more widely practiced.

Due to lack of detailed data on commuting in the DM/NFR Ozone NAA, the NFRMPO proposal relies solely on geographic areas to delineate tiers. However, if additional data becomes available, it may be appropriate to revise the proposal's tiers or targets by accounting for other factors such as employer industry and access to high frequency transit. One way to improve the targets is to revise the regulation to require a review of the tiers and targets within the first year or two of the program when survey results submitted by large employers are available.

¹¹ Dill, J. (1998). Mandatory Employer-Based Trip Reduction: What Happened? *Transportation Research Record*, 1618(1), 103–110. <https://doi.org/10.3141/1618-12>.

Table 2. Proposed SOV Drive Rate Tiers and Targets by Number of Affected Large Employers and Employees

Tier Name	Number of Large Employers	Number of Employees	Estimated Baseline SOV Rate	2023 SOV Rate Target (5 percentage point reduction from baseline)	2025 SOV Rate Target (10 percentage point reduction from baseline)
Downtown Denver	191	72,046	57%	52%	47%
Downtown Boulder	19	7,197	65%	60%	55%
Other Urban	2,296	715,057	77%	72%	67%
Rural	242	77,778	82%	77%	72%
Total	2,748	872,078	N/A	N/A	N/A

The tiered proposal from the NFRMPO would provide emission reductions benefits that are feasible and similar to the benefits that would be provided by the Division’s proposal, as adjusted to account for feasibility as well as accuracy of the baseline SOV commute rate per the recommendations in Section II.C.2 below.

C. The Initial EIA’s Cost-Effectiveness Analysis Is Flawed.

There are several elements of the Initial EIA that should be updated to provide a more accurate estimate of the economic impact of the ETRP proposal, including the emission factor model, the assumed baseline SOV commute rate, and the set of strategies in the employer cost estimate. The NFRMPO addresses each below.

1. Emission Factor Model

The Initial EIA uses the Greenhouse gases, Regulated Emissions, and Energy Use in Technologies (“GREET”) model developed by Argonne National Laboratory to develop a gram per mile emission factor for estimating the ozone precursor and GHG benefits of the ETRP proposal. The emission factor is based on a simplified set of assumptions, such as the inclusion of a single vehicle age (eight years older than the modeled year) to represent the average emissions for vehicles of all ages. It is unclear if this methodology could be used if the ETRP were to be added into the State Implementation Plan (“SIP”)

at some point in the future.¹² The NFRMPO recommends using the EPA’s Motor Vehicle Emissions Simulator (“MOVES”) model to determine emissions factors. The MOVES model is already used in SIP submissions to EPA and relies on a more comprehensive set of data inputs and assumptions than the GREET model.

2. Assumed Baseline SOV Commute Rate

The Initial EIA assumes a baseline commute rate of 100 percent SOV, which is well above the pre-pandemic estimate of an average 75 percent SOV commute rate in the DM/NFR¹³ and likely even higher than the SOV commute rate during the pandemic, when telework increased dramatically. By using a false baseline, the Initial EIA counts benefits from reducing trips that are not occurring. If the ETRP were to be added into the SIP, a 100 percent baseline could not be used to estimate benefits due to the following EPA guidance:

“An appropriate baseline must be chosen, so that the reductions are estimated only from measures that are not already accounted for in the baseline estimates. For example, if commuter programs were already in effect when the SIP was developed and were accounted for in the SIP’s baseline, the emission reductions associated with implementation or continuation of those same programs cannot be included as surplus emission reductions for the SIP.”¹⁴

The NFRMPO recommends using a baseline that reflects pre-pandemic commuting due to greater data availability than data from the pandemic and to reference a well-established baseline. An analysis of commute data aggregated to Census Tracts from the 2012-2016 Census Transportation Planning Products (“CTPP”) program reveals 69 percent of large employers are within Census Tracts where the average SOV rate for commute trips ending in that Census Tract exceeded the 75 percent target established in the proposed ETRP for July 1, 2023. The median SOV rate among tracts with averages above 75 percent is ~84 percent. Therefore, the EIA could assume 69 percent of employers would decrease SOV commute rates by a median of nine percent to achieve compliance with the 75 percent SOV requirement. A similar analysis could be conducted for the 60 percent SOV Requirement, or any other percentage that might be specified in the regulation.

While there are several notable flaws with the CTPP data, such as high margins of error at the Census Tract level, inclusion of the self-employed, and the lack of precision in the commute trip question asked of survey respondents¹⁵, the CTPP data is the best

¹² NFRMPO does not propose that the ETRP rule advocated by the Division be incorporated into Colorado’s SIP if adopted in this proceeding.

¹³ Based on an analysis of 2015-2019 American Community Survey data.

¹⁴ U.S. EPA. (2014). “Commuter Programs: Quantifying and Using Their Emission Benefits in SIPs and Conformity. Guidance for State and Local Air and Transportation Agencies.” EPA-420-B-14-004. <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100HP2E.PDF?Dockkey=P100HP2E.PDF>.

¹⁵ The CTPP data is a special aggregation of American Community Survey (ACS) data for transportation purposes. The ACS commute trip question asks “How did this person usually get

available for determining a baseline SOV commute rate for the DM/NFR ozone NAA.

3. Omission of Strategies in the Initial EIA

The Initial EIA omits the costs of several strategies identified in Section III.C.1.o. as options for inclusion in an employer's ETRP Plan. Cost estimates should be included in the EIA for the following strategies:

- Guaranteed Ride Home in Section III.C.1.o.(vi).
 - NFRMPO Recommendation: Use an average cost of \$4.28 per covered employee per year based on data from the VanGo™ vanpool program. Data from other programs in the region may also be used to arrive at an arrive region-wide cost. With the average employer size assumption in the Initial EIA of 318 employees, and assuming employers provide the benefit to all employees, the average cost per employer is \$1,361 per year. Assuming 10 percent of employers offer this benefit, which can provide backup transportation options for commuters using transit, vanpool, or carpool, the annual cost for all employers is \$375,562 per year.
- Bicycle parking facilities and other active commute facilities in Section III.C.1.o.(viii).
- Recognition and rewards for employee participation in the ETRP Plan in Section III.C.1.o.(xv).
 - NFRMPO Recommendation: Use an estimate from an existing employer's benefits program, such as Seattle Children's Hospital, which pays their employees \$4.50 per day for not driving alone to work.¹⁶ With the average employer size assumption in the Initial EIA of 318 employees, and assuming 40 percent of employee commute trips are non-SOV and therefore eligible for the benefit, the average cost per employer is \$148,824 per year. Assuming five percent of employers offer this benefit, the annual cost for all employers is \$20,537,712 per year.

D. Applicability of the ETRP Strategies and Alternative Compliance Approaches to the Range of Employers Subject to the Proposed ETRP

to work LAST WEEK? If this person usually used more than one method of transportation during the trip, mark (X) the box of the one used for most of the distance.” Due to the question asking about the usual transportation mode, modes that are used infrequently by a commuter, such as occasional transit use, will not appear in the resulting data.

¹⁶ Luum by Health Equity. (2020). ICYMI: How To Build Your Best Commuter Benefits Program With Seattle Children's Hospital. <https://go.luum.com/seattle-childrens-hospital-webinar/>.

Many of the employers subject to the proposed ETRP will be unable to achieve substantial reductions in their employees' SOV commute rates because of their inability to telework, rotating schedules, and shift work. Furthermore, some of these employers do not have on-site equipment/processes or fleet vehicles that could be upgraded to achieve equivalent emission reductions, as allowed under the alternative compliance approaches in Section III.G.1. Setting unrealistic SOV reduction targets for these employers will subject these employers to potential enforcement actions, which in turn will divert resources from more cost-effective and feasible emission reduction opportunities.

Retailers, which constitute 391 (or 14 percent) of the estimated 2,748 large employers in the DM/NFR Ozone NAA, are often unable to make use of the three most effective ETRP strategies: telework, vanpool/carpool, and transit. Most retail employees perform work on-site and cannot telework. Retail employees often have rotating schedules (times and/or days) that make carpool and vanpool formation next to impossible. Finally, retail shifts often do not coincide with transit service hours, with shifts extending into evening hours and on Sundays when transit is less frequent or not available.

Another 212 employers—8 percent of large employers in the DM/NFR Ozone NAA—are in the manufacturing sector. Manufacturing employers often have several limitations in achieving SOV commute rate reductions, such as inability to telework and shift work.

To resolve these challenges, the NFRMPO reiterates its recommendation to create a voluntary ETRP instead of a mandatory ETRP. Alternatively, if the program remains mandatory, the Commission could lessen the burden on employers by setting an arrival time window (e.g. arriving between 6:00 am to 9:00 am) or overall shift window (e.g. beginning work after 6:00 am and ending work prior to 6:00 pm) to exclude employers who do not have at least 100 employees arriving during the morning peak or working during the day.

E. Definition and Clarity

To provide clarity and increased certainty to large employers, the NFRMPO recommends several revisions to Section III, as shown in redline in NFRMPO_PHS_EX-001 and the accompanying explanatory text in NFRMPO_PHS_EX-002.

In addition, the NFRMPO recommends the Division clarify the following issues:

- Currently, an ETC must be designated prior to submitting an exemption demonstration, after which an ETC is no longer required. We recommend revising the rule to avoid this contradiction and/or providing support to employers in navigating requirements for ETCs.
- Clarify if submission of survey data and the calculated SOV Rate can be aggregated across multiple worksites for large employers with more than one

affected worksite, or if each worksite is reported separately. We recommend offering both options to employers.

- Clarify which employees are covered in the exemption related to “emergency response” in III.C.1.1.
- Clarify which requirements of Section III no longer apply to employers after the Division approves an alternative compliance plan. Some employers may solely use an alternative compliance approach, in which case they should not need to develop an ETRP, conduct surveys, or have an ETC. Other employers may maintain their ETRP in addition to alternative compliance, in which case the rest of the regulation should still apply.
- Clarify which criteria are used to evaluate the ETRP Plan. In Section III.E.1.e. the regulation states the Division may notify the employer of any deficiencies in the submitted ETRP Plan based on the criteria in Section III.C.1.e.; however, the referenced section does not identify criteria for ETRP Plans.
- Clarify if the Division-approved data to assess employees’ SOV Drive Rate can only be provided for purposes of an exemption demonstration pursuant to Section III.F.1, as stated in III.C.1.d. and III.C.1.e. Based on the Proposed Statement of Basis, Specific Statutory Authority, and Purpose, the reason for allowing Division-approved data is to simplify requirements for employers who already have a program and survey results. Some of these employers may want to use the data they have collected, even if they are ineligible for an exemption because their SOV rate is higher than that required in the regulation.

III. List of Issues to be Resolved by the Commission.

1. The ETRP should be voluntary and incentivized, not mandatory.
2. The SOV Drive Rate requirement should be tiered based on geographic location.
3. The inputs to the Initial EIA should be revised.
4. The ETRP should be revised to account for the lack of applicability of the ETRP strategies and alternative compliance approach(es) to certain types of employers.
5. Many of the proposed revisions to Section III lack clarity, creating regulatory uncertainty for the up to 2,748 employers anticipated to be subject to this rule. Clarifications should be made as suggested in Section II.E. of this prehearing statement and the NFRMPO’s Exhibit 1.

IV. List of Exhibits.

1. NFRMPO_PHS_EX-001: Suggested language modifying the Proposed Revisions to Regulation No. 22.
2. NFRMPO_PHS_EX-002: Explanations for suggested language modifying the Proposed Revisions to Regulation No. 22.

V. Initial Witness List

1. *Medora Bornhoft, Transportation & Air Quality Planner III, NFRMPO.* Ms. Bornhoft will present facts and policy arguments in support of the NFRMPO's prehearing statement and position on the proposed regulation.
2. *Suzette Mallette, Executive Director, NFRMPO.* Ms. Mallette will present facts and policy arguments in support of the NFRMPO's prehearing statement and position on the proposed regulation.
3. *Kathleen Pritchard, Associate, Davis Graham & Stubbs LLP.* Ms. Pritchard will present facts and legal arguments in support of the NFRMPO's prehearing statement and position on the proposed regulation.
4. *Scott James, Weld County Commissioner.* Commissioner James will present facts and policy arguments in support of the NFRMPO's prehearing statement and position on the proposed regulation.
5. *Kristin Stephens, Larimer County Commissioner.* Commissioner Stephens will present facts and policy arguments in support of the NFRMPO's prehearing statement and position on the proposed regulation.

The NFRMPO reserves the right to identify rebuttal witnesses based on issues raised in other parties' prehearing statements.

VI. Written Testimony

Currently, the NFRMPO does not intend to submit any written testimony.

VII. Conclusion

The NFRMPO supports the creation of a voluntary ETRP instead of a mandatory program. The NFRMPO has several concerns about the Division's current proposal, including the effectiveness and equity of requiring a one-size-fits-all SOV Drive Rate target, the accuracy of the Initial EIA, the lack of applicability of ETRP strategies and alternative compliance approaches to certain employers, and the lack of definition and clarity in specific sections of the proposed rule. Again, we appreciate the opportunity to participate in this rulemaking.

Respectfully submitted this 9th day of July, 2021.

NORTH FRONT RANGE
METROPOLITAN PLANNING
ORGANIZATION

/s/ Suzette Mallette

Suzette Mallette, NFRMPO
419 Canyon Ave., Suite 300
Fort Collins, CO 80521
smallette@nfrmpo.org
(970) 986-4197

DRAFT

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within PREHEARING STATEMENT OF THE NORTH FRONT RANGE METROPOLITAN PLANNING ORGANIZATION, upon all parties herein by email this 9th day of July 2021, addressed as follows:

[LIST OF RECIPIENTS TO BE ADDED]

/s/ Suzette Mallette

Suggested language modifying the Proposed Revisions to Regulation No. 22



NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 11, Regulation Number 20, and Regulation Number 22
5 CCR 1001-13, 5 CCR 1001-24, and 5 CCR 1001-26

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 11, Regulation Number 20 and Regulation Number 22, as follows:

Regulation Number 11

Consider revisions to reduce emissions from motor vehicles subject to Colorado's Automobile Inspection and Readjustment ("AIR") Program in the Denver Metropolitan/North Front Range area ("DMNFR"), and designed to result in increased AIR Program efficiencies.

Regulation Number 20

Consider revisions to update incorporations by reference of specific provisions of California's Code of Regulations. Requested changes also place the aftermarket catalytic converters requirements contained in existing Part B VII. into a new section entitled Part C Aftermarket Exhaust Treatment Devices, and renumber all subsequent sections. Requested changes will also make a minor correction to a definition contained in Part A II.E.

Regulation Number 22

Consider revisions to update Part B, Section I., specifically changes to the definitions of **"Rigid Polyurethane High-pressure Two-component Spray Foam"** and **"Rigid Polyurethane Low-pressure Two-component Spray Foam"** found in the existing Hydrofluorocarbons ("HFC") prohibitions rule (Part B, Sections I.B.40. and I.B.41.) to more accurately describe the noted products or end-uses. Also proposed is a new Section III. in Part B., 1) for a new Greenhouse Gas Emissions and Energy Management Program for Industrial Manufacturers ("GEMM") in Colorado to conduct an audit of their operations every 5 years to determine whether they are using the best available technologies and the best available energy efficiency practices to reduce GHG emissions and 2) for a new **Employee Traffic Reduction Program ("ETRP") as part of the state's efforts to reduce GHG emissions as directed in § 25-7-105, C.R.S.** Regarding Regulation Number 22, issues to be considered in the hearing include those concerning emissions accounting and baselines and compliance and enforceability. The geographic boundary of ETRP is also within the scope of this rulemaking, except that mandatory requirements for rural areas outside of the DMNFR will not be considered.

Further, these revisions will include any typographical, grammatical and formatting errors throughout each of the regulations.

All required documents for this rulemaking can be found on the Commission website at:

<https://cdphe.colorado.gov/aqcc>

PUBLIC COMMENT SESSION

DATE: August 18, 2021

TIME: 4:30 p.m. to 7:30 p.m.

PLACE: The hearing will be held online only; there will be no in-person participation.

Details related to participation and registration can be found at:

<https://cdphe.colorado.gov/aqcc>

NOTE: The public comment session may end early if all commenters that are registered and in attendance before 6:30 have had an opportunity to speak prior to 7:30.

PARTY TESTIMONY & DELIBERATIONS

DATE: August 18-20, 2021

TIME: To begin at or after 9:00 a.m.

PLACE: The hearing will be held online only; there will be no in-person participation.

Details related to participation and registration can be found at:

<https://cdphe.colorado.gov/aqcc>

NOTE: No additional public comment will be taken during this time.

IMPORTANT: As Colorado begins to re-open from COVID-19, the Commission may reestablish conducting meetings at the Colorado Department of Public Health and Environment in its entirety or structured as a hybrid meeting. Any such changes will be noticed on the **Commission's website** at: <https://cdphe.colorado.gov/aqcc>

*The hearing may be continued at such places and time as the Commission may announce. Any **such changes will be noticed on the Commission's website. Interested parties may contact the Commission Office** at cdphe.aqcc-comments@state.co.us to confirm meeting details.*

PUBLIC COMMENT:

The Commission encourages input from the public, either orally during the public comment session or in writing prior to the hearing. However, oral public comment will generally not be permitted by persons who offer comment on behalf of an entity that is a party. Those persons may, however, submit written public comment. Instructions for registering to provide oral **public comment will be posted in the agenda on the Commission's website** at <https://cdphe.colorado.gov/aqcc> on August 6, 2021.

Written comments should be submitted no later than August 3, 2021 by emailing cdphe.aqcc-comments@state.co.us or mailing to:

Colorado Air Quality Control Commission
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South, EDO-AQCC-A5
Denver, Colorado 80246

IMPORTANT DATES AND DEADLINES:

PROCESS DESCRIPTION	DUE DATE & TIME	NOTES
Request for Party Status	June 16, 2021 by 5:00 p.m.	Additional information below
Status Conference	June 21, 2021 at 1:00 p.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc
Alternate Proposal	July 7, 2021 by 11:59 p.m.	Additional information below
Prehearing Statement	July 7, 2021 by 11:59 p.m.	Additional information below
Prehearing Conference	July 19, 2021 at 1:00 p.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc
Rebuttal Statement	July 29, 2021 by 12:00 p.m.	Additional information below
Written Public Comments	August 3, 2021 by 11:59 p.m.	Additional information above

Submittals for this hearing should be emailed to cdphe.aqcc-comments@state.co.us unless an exception is granted pursuant to Subsection III.I.3. of the Commissions Procedural Rules.

REQUEST FOR PARTY STATUS:

A request for party status must:

- 1) identify the applicant (this could be a company and/or contact name);
- 2) provide the name, address, telephone and email address of the applicant's representative or counsel; and
- 3) briefly summarize what, if any, policy, factual, and legal issues the applicant has with the proposal(s) as of the time of filing the application.

In addition, requests for party status should indicate whether the applicant intends to file an alternate proposal and, if so, briefly describe the scope and nature of the alternate proposal.

The request for party status must be electronically mailed to:

- Air Quality Control Commission staff: theresa.martin@state.co.us
- Air Quality Control Commission attorney: tom.roan@coag.gov
- Air Pollution Control Division staff: steve.mccannon@state.co.us
- Air Pollution Control Division staff: clay.clarke@state.co.us
- Air Pollution Control Division attorney: david.beckstrom@coag.gov

Requests received beyond the stated deadline shall only be considered upon a written motion for good cause shown. The Commission reserves the right to deny party status to anyone that **does not comply with the Commission's Procedural Rules.**

STATUS CONFERENCE:

Attendance at the status conference is mandatory for anyone who has requested party status, though each party need only have one representative present. The status conference is intended to ascertain and discuss the issues involved, and to ensure that parties are making all necessary efforts to discuss and resolve such issues prior to the submission of prehearing statements. Parties will be confirmed and a party list will be generated and distributed. The status conference will be held virtually via video conference. A registration link will be **provided by the Commission's office prior to the status conference. Note that if the Hearing Officer deems the status conference unnecessary, the status conference may be cancelled.**

ALTERNATE PROPOSAL:

Alternate proposals will be considered by the Commission "only if the subject matter of the alternative proposal is consistent with and fits within the scope of the notice." 5 CCR 1001-1, Section (V)(E)(4)(b). The submittal of an alternate proposal must be accompanied by a separate electronic copy of the alternate proposed rule and statement of basis and purpose language and all other associated documents as required by the **Commission's Procedural Rules**, including an economic impact analysis. Alternate proposals and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission.

PREHEARING STATEMENTS:

Each party must submit a prehearing statement. Exhibits to a prehearing statement must be submitted in a separate electronic transmission. Prehearing statements and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. Prehearing statements must contain **all the necessary elements described in subsection V.E.6.c of the Commission's Procedural Rules** (5 CCR 1001-1).

PREHEARING CONFERENCE:

Attendance at the prehearing conference is mandatory for all parties to this hearing, though each party need only have one representative present. The prehearing conference will be held virtually, and registration information will be provided by the **Commission's** office prior to the prehearing conference.

REBUTTAL STATEMENTS:

Rebuttal statements may be submitted by the Division and any party to the hearing to respond to issues and arguments identified in prehearing statements. Rebuttal statements may not raise any issues, or be accompanied by alternate proposals, that could have been **raised in the party's prehearing statement. Rebuttal statements and associated exhibits must** be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. The filing of rebuttal statements is optional.

DELIBERATION AND FINAL ACTION:

The Commission intends to deliberate and take final action on the proposed changes to these Regulations at the conclusion of the testimony.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

Regulation Number 11

The Commission has the duty and authority to adopt the proposed regulatory revisions. EPA's regulations provide that "any area classified as serious or worse ozone nonattainment, or as moderate or serious CO nonattainment with a design value greater than 12.7 ppm, and having a 1980 Bureau of Census-defined (Census-defined) urbanized area population of 200,000 or more, shall implement enhanced I/M in the 1990 Census-defined urbanized area." 40 C.F.R. §51.350(a)(2). Further, the Colorado Air Pollution Prevention and Control Act (C.R.S. §§ 25-7-101, et seq.) ("APPCA"), and specifically C.R.S. §§ 25-7-105(1)(a), 25-7-301, and 25-7-302, C.R.S., direct the Commission to promulgate such rules and regulations necessary for the proper implementation and administration of a comprehensive SIP that will assure attainment and maintenance of NAAQS. Section 25-7-106, C.R.S., provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program.

Regulation Number 20

Section 177 of the CAA, 42 U.S.C. § 7507, provides states the option of requiring compliance with approved California standards for vehicles sold within their borders. The Act at § 25-7-105(1), C.R.S., directs the Commission to promulgate emission control regulations consistent with the legislative declaration set forth in Section 25-7-102, C.R.S., and in conformity with § 25-7-109, C.R.S. Sections 25-7-109(1)(a) and (2), C.R.S. of the Act authorize the Commission to promulgate regulations requiring effective and practical air pollution controls for significant sources and categories of sources, and emission control regulations pertaining to carbon oxides. Section 25-7-103, C.R.S., provides that such emission control regulations include, inter alia, design, equipment, or operational standards. Section 25-7-106, C.R.S., further provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106, C.R.S., also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution.

Regulation Number 22

The APPCA, specifically § 25-7-105(1), C.R.S., directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102, C.R.S., and that are necessary for the proper implementation and administration of the APPCA. Section 25-7-105(1)(e), C.R.S., authorizes the Commission to promulgate implementing rules and regulations consistent with the statewide GHG pollution reduction goals in § 25-7-102(2)(g), C.R.S. In adopting GHG abatement strategies and implementing rules, the Commission is authorized to take into account other relevant laws and rules to enhance efficiency and cost-effectiveness and solicit input from other state agencies and stakeholders on the advantages of different statewide GHG pollution mitigation measures. §§ 25-7-105(1)(e)(II) and (IV), C.R.S. Implementing rules may include regulatory strategies that "enhance cost-effectiveness, compliance flexibility, and transparency around compliance costs." § 25-7-105(1)(e)(V), C.R.S. Further, in promulgating such implementing rules, the Commission is to consider many factors, including, but not limited to: health, environmental, and air quality benefits and costs; the relative contribution of each source or source category to statewide GHG pollution; equitable distribution of the benefits of compliance; issues related to the beneficial use of electricity to reduce GHG emissions; and whether greater or more cost-effective emission reductions are available through program design. § 25-7-105(1)(e)(VI), C.R.S.

Section 25-7-106, C.R.S., provides the Commission “maximum flexibility in developing an effective air quality program and [promulgating] such [a] combination of regulations as may be **necessary or desirable to carry out that program.**” Section 25-7-109(1), C.R.S., authorizes the Commission to adopt and promulgate emission control regulations that require the use of effective practical air pollution controls for each type of facility, process, or activity which **produces or might produce significant emissions of air pollutants.** An “**emission control regulation**” may include “**any regulation which by its terms is applicable to a specified type of facility, process, or activity for the purpose of controlling the extent, degree, or nature of pollution emitted from such type of facility, process, or activity. . . .**” § 25-7-103(11), C.R.S. Emission control regulations may pertain to any chemical compound including GHG pollution and emissions of ozone precursors. See § 25-7-109(2)(c), C.R.S.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 25-7-110.5 and 25-7-**110.8 C.R.S., as applicable and amended, the Commission’s Procedural Rules,** all other applicable rules and regulations, and as otherwise stated in this notice. This **list of statutory authority is not intended as an exhaustive list of the Commission’s statutory authority to act in this matter.**

Dated this 26th day of May 2021 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in black ink, appearing to read "Jeremy Neustifter", is written over a large, light gray, diagonal watermark that says "DRAFT".

Jeremy Neustifter, Interim Administrator

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 22

Colorado Greenhouse Gas Reporting and Emission Reduction Requirements

5 CCR 1001-26

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Outline of Regulation

- PART A Greenhouse Gas Reporting
- PART B Greenhouse Gas Emission Reduction Requirements
- PART C General Provisions
- PART D Statement of Basis, Specific Statutory Authority, and Purpose

Pursuant to Colorado Revised Statutes Section 24-4-103 (12.5), materials incorporated by reference are available for public inspection during normal business hours, or copies may be obtained at a reasonable cost from the Air Quality Control Commission (the Commission), 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. The material incorporated by reference is also available through the United States Government Printing Office, online at www.gpo.gov/fdsys. Materials incorporated by reference are those editions in existence as of the date indicated and do not include any later amendments.

Unless otherwise indicated, any incorporation by reference of provisions of Title 40, Part 98, of the Code of Federal Regulations (CFR) are to the edition effective as of July 1, 2019.

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PART B Greenhouse Gas Emission Reduction Requirements

- I. Prohibitions on Use of Certain Hydrofluorocarbons in Aerosol Propellants, Chillers, Foam, and Stationary Refrigeration End-Uses

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- I.B. Definitions

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I.B.40. "Rigid Polyurethane High-pressure Two-component Spray Foam" means a foam product that is pressurized 800 1600 pounds per square inch (psi) during manufacture; sold in pressurized containers as two parts (i.e., A-side and B-side); and is in non-pressurized containers that are blown and applied in situ using high-pressure pumps at 800-1600 pounds per square inch (psi) and an application gun to propel the foam components, and may use liquid blowing agents without an additional propellant.

I.B.41. "Rigid Polyurethane Low-pressure Two-component Spray Foam" means a foam product that is pressurized to less than 250 psi during manufacture; sold in pressurized containers as two parts (i.e., A-side and B-side); and are in containers that are pressurized to less than 250 psi that is typically applied in situ relying upon a gaseous foam blowing agent that also serves as a propellant so pumps typically are not needed.

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II. Greenhouse Gas Emissions and Energy Management for the Manufacturing Sector in Colorado

II.A. Purpose and Applicability

II.A.1. The purpose of this regulation is to evaluate greenhouse gas (GHG) emissions from the Colorado industrial manufacturing sector and implement best practices for reducing those emissions.

II.A.2. This regulation applies to all energy-intensive, trade-exposed manufacturing entities (EITE entities) in Colorado, with reported direct CO₂e emissions equal to or greater than 50,000 metric tons per year.

II.B. Definitions

II.B.1. "ASHRAY" means the society formerly known as the American Society of Heating, Refrigerating and Air-Conditioning Engineers, focused on the advancement of sustainable technology for the built environment including building systems, energy efficiency, indoor air quality, refrigeration, and sustainability.

II.B.2. "Audit criteria" means the standards to which the auditor evaluates the facility equipment and processes.

II.B.3. "Audit protocol" means the proposed audit plan submitted by the EITE entity to the Division for approval.

II.B.4. "Audit report" means the resulting document from the audit.

II.B.5. "Audit team" means the group of persons performing the audit. Capabilities and knowledge of the audit team must include, but are not limited to, those requirements of the qualified third-party auditor; technical expertise with specific operating and maintenance practices for the industry and current best practices in the industry; and/or international expertise of the EITE entity's market.

II.B.6. "Carbon dioxide equivalent" (CO₂e) means a metric used to compare the emissions from various GHG classes based upon their global warming potential (GWP). The CO₂e is determined by multiplying the mass amount of emissions (tons per year), for each GHG constituent by that gas's GWP, and summing the resultant values to determine CO₂e (tons per year).

II.B.7. "Certification body" means a professional organization that has been accredited for a specific sector and can provide compliance certificates.

II.B.8. "Co-benefits" means the additional reduction of pollution burden to local communities. This includes, but is not limited to, localized air or water quality

benefits, noise, traffic, and odor reduction and improvements to the health and safety of the facility employees.

- II.B.9. "Direct GHG emissions" means GHG emissions from an EITE entity that are reported to the State of Colorado under Regulation Number 22, Part A.
- II.B.10. "Energy best management practices" (energy BMPs) means the best energy efficiency practices available to the EITE entity when considering cost-effectiveness.
- II.B.11. "Energy-intensive, trade-exposed manufacturing entity" (EITE entity) means an entity that principally engages in cement and concrete product manufacturing, NAICS code 3273; foundries, NAICS code 3315; iron and steel mills and ferroalloy manufacturing, NAICS code 3311; and/or pulp, paper, and paperboard mills, NAICS code 3221.
- II.B.12. "Energy and GHG emission control audit" (the audit) means a rigorous examination of the GHG emissions and energy consumption of an EITE entity with the goal of analyzing and recommending GHG BACT, the implementation of best control practices, and identifying opportunities for reduction in GHG emissions and energy consumption for the facility.
- II.B.13. "Energy efficiency" means using less electricity or fuel to produce the same product.
- II.B.14. "Facility air permits" means federal or state air pollution permits that apply to the EITE entity.
- II.B.15. "Global warming potential" (GWP) means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas, i.e., (CO₂). The applicable GWPs codified in 40 CFR Part 98, Subpart A, Table A-1 – Global Warming Potentials (December 11, 2014) are hereby incorporated by reference.
- II.B.16. "Greenhouse gas" (GHG) means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆), and nitrogen trifluoride (NF₃).
- II.B.17. "Greenhouse gas best available control technology" (GHG BACT) means a GHG emission limitation based on the maximum degree of reduction of a regulated GHG emitted from any emitting facility, process or equipment, that is achievable on a case-by-case basis, taking into account energy, environmental, and economic impacts among other factors, and is determined by to be achievable for such facility through application of production process improvements and available equipment or process control methods, systems, and techniques.
- II.B.18. "Greenhouse gas intensity" means the metric tonnes of CO₂e per ton of product produced.
- II.B.19. "Lead auditor" means an individual who has met the requirements of and is certified as a lead auditor through a professional certification body.
- II.B.20. "Management system" means the policies, processes, and procedures used by an organization to ensure that it can fulfill the tasks required to achieve its GHG emissions or energy management objectives.

- II.B.21. "Modification" means any physical change or change in the method of operation at the EITE entity facility that increases the facility GHG emissions greater than or equal to 5% of the previously years GHG emissions as reported under Regulation Number 22, Part A.
- II.B.22. "North American industry classification system (NAICS) code(s)" means the six-digit code(s) that represents the product(s)/activity(s)/service(s) at a facility or supplier as listed in the Federal Register and defined in "North American Industrial Classification System Manual 2007," available from the U.S. Department of Commerce, National Technical Information Service, Alexandria, VA 22312 and <http://www.census.gov/eos/www/naics/> (as published August, 2021).
- II.B.23. "Plain-language" means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and is easily understandable.
- II.B.24. "Process" means a specific operation at an EITE entity comprising a series of actions or steps which are carried out in a specific order to complete a particular stage in the manufacturing process.
- II.B.25. "Qualified third-party auditor" means one or more individuals who hold a valid lead auditor certification in greenhouse gas or energy management systems and have demonstrated capabilities to evaluate GHG reduction opportunities for large, energy-intensive, industrial manufacturing processes and facilities. The individual must be unaffiliated with the EITE entity, its subsidiaries, and related entities; there can be no common ownership between the EITE entity and the third-party auditor. Capabilities and knowledge of the auditor include, but are not limited to, background, experience, and recognized abilities to perform the assessment activities, data analysis, and report preparation and experience lead auditing GHG or energy management systems for industrial facilities.
- II.B.26. "Regulated facility" means any industrial manufacturing source subject to a permit by the Air Pollution Control Division.
- II.B.27. "RACT/BACT/LAER Clearinghouse" (RBLC) means the central database of air pollution technology information, including past RACT, BACT, and LAER decisions contained in New Source Review (NSR) permits, to promote the sharing of information among permitting agencies and to aid in future case-by-case determinations.
- II.B.28. "Social cost of carbon" means the monetized damages associated with an incremental increase in carbon emissions in a given year. The cost of carbon dioxide emission is based on the most recent assessment of the social cost of carbon developed by the federal government.
- II.B.29. "Strategic energy management" (SEM) means a continuous improvement process helping organizations effectively manage energy use via operations, maintenance, and behavioral changes.

II.C. Energy-Intensive Trade-Exposed Entity Audit Requirements

- II.C.1. By December 31, 2022, and every five years thereafter or upon modification of the facility as defined in Section II.B.21., owners or operators of each EITE entity must conduct energy and GHG emission control audits to establish the standard

for greenhouse gas best available control requirements (GHG BACT), determine compliance with GHG BACT, and assess the use of energy best management practices (energy BMPs) for the facility. The energy and GHG emission control audit following a modification may be limited to assessing the physical change at the facility.

The owner or operator of an EITE entity must conduct an audit within twelve (12) months of exceeding the reported 50,000 metrics tons per year CO₂ applicability threshold and every five years thereafter or upon modification of the facility as defined in Section II.B.21.

II.C.1.a. Audits must be conducted by a qualified third party and meet or exceed ASHRAE Level II requirements.

II.C.2. Owners or operators of each EITE entity must submit an audit protocol to the Division for approval at least 120 days prior to beginning the audit as required in Section II.C.1. The Division will review the audit protocol and notify the EITE entity within 60 days of submission of any deficiencies. If notified of deficiencies, the EITE entity must submit a revised audit protocol for final approval no later than 30 days prior to beginning the audit. Owners or operators of the EITE entity must receive approval from the Division of the audit protocol prior to beginning the audit. The audit protocol must include

II.C.2.a. A list and description of

II.C.2.a.(i) All the equipment and processes at the EITE entity's facility that directly release one or more GHGs.

II.C.2.a.(ii) The equipment and processes at the EITE entity's facility that produced the top 80% of the facility's GHG emissions, averaged over the most recent three (3) years, sorted by largest emitting to smallest emitting.

II.C.2.b. Records of any previous third-party audit results that the EITE entity is proposing to use to support the audit on a supplementary basis or to avoid duplication of data collection efforts that have been performed within three (3) years prior to the planned audit date. The supplementary audit data must meet or exceed ASHRAE Level II audit requirements and be relevant, accurate, and externally verified and validated.

II.C.2.c. A list of the individual(s) who will perform the audit, including experience, qualifications, and role in the audit. This list of individuals is considered the audit team.

II.C.3. Owners or operators of each EITE entity must submit an audit report to the Division within 60 days after completion of the audit that includes the following elements for all equipment and processes specified in the Division-approved audit protocol, at a minimum

II.C.3.a. All GHG emissions reduction control technologies and strategies analyzed.

II.C.3.b. All GHG emissions reduction control technologies and strategies deemed technically infeasible and associated analysis.

II.C.3.c. All GHG emissions reduction control technologies and strategies deemed technically feasible and associated analysis.

II.C.3.d. The GHG BACT analysis.

II.C.3.d.(i) The GHG BACT analysis must first reference existing GHG BACT limits in the EITE entity's air pollution permits and the RACT/BACT/LAER Clearinghouse.

II.C.3.d.(ii) If the EITE entity's air permit and the RACT/BACT/LAER Clearinghouse do not have pre-established GHG BACT for the specific equipment and processes assessed, the audit team must analyze GHG BACT as follows.

II.C.3.d.(ii)(A) Identify all available control technologies and strategies for the specific equipment and process. Control technologies and strategies may include, but are not limited to, fuel use (considering fuel switching), raw materials used (considering changing raw material inputs), energy efficiency improvements (considering waste to heat options, preheating/heat reuse and strategic energy management options), and carbon capture and underground storage or utilization.

II.C.3.d.(ii)(B) Eliminate technically infeasible control technologies and strategies.

II.C.3.d.(ii)(C) Rank remaining control technologies and strategies based on direct emissions control efficiency, cost, impacts to jobs, the health and safety of employees, other pollution reduction co-benefits including localized air and water quality benefits, and impacts on local noise, opacity, odor, and truck traffic.

II.C.3.d.(ii)(C)(1) The audit team must perform a life-cycle cost analysis on all control technologies and strategies, which includes the full lifetime of the control technologies and strategies. The audit team must document in the audit report the discount rate used. This cost analysis must review the current and projected market value of the commodity. The cost analysis must include a benchmarking of the EITE entity's direct GHG intensity in CO₂e per unit of product for the facility to the direct GHG intensity per product and/or process reported by domestic and international industry peers. The cost analysis must document a comparison of each potential control technologies and strategies in a cost per metric ton CO₂e reduction to the social cost of carbon.

II.C.3.d.(iii) When considering GHG BACT, the audit team must give increased priority to GHG reduction initiatives that would produce co-benefits to the neighboring communities surrounding the facility.

II.C.3.e. The GHG BACT recommendation. This includes

II.C.3.e.(i) Recommendations on the most effective direct emissions control technologies and strategies as GHG BACT unless the EITE entity demonstrates to the satisfaction of the audit team that technical considerations or energy, environmental, or economic impacts justify a conclusion that the top-ranked technology is not achievable in that case and would cause unreasonable cost or operational burden.

II.C.3.e.(i)(A) If the EITE entity demonstrates that the top-ranked technology is unachievable, the audit team must document this analysis and determination in the audit report.

II.C.3.e.(ii) Recommendations to bring the facility into compliance with the GHG emission level that is equal to or less than that associated with full utilization of GHG BACT as determined by the audit by a specific date.

II.C.3.e.(iii) Recommendations on GHG emission reduction options that provide greater pollution reduction co-benefits to the surrounding communities where two or more control technologies or strategies are comparable in terms of cost and GHG reductions but one has greater co-benefits.

II.C.3.e.(iv) Recommendations on GHG emission reduction options that are equal to or less than the social cost of carbon.

II.C.3.f. The energy efficiency and conservation control technologies and strategies recommendation.

II.C.3.f.(i) Certification under the Federal Environmental Protection Agency's (EPA) Energy Star Program will be determined as utilization of energy BMPs for the EITE entity.

II.C.3.f.(ii) If the EITE entity is not certified under the Federal Energy Star Program, the audit team must perform a strategic energy management analysis of the facility, utilizing the results to inform the recommendation of energy BMPs.

II.C.3.f.(iii) If the audit team determines the EITE entity is currently using a certified or externally reviewed SEM, that information may be used to inform the recommendations for energy BMPs.

II.C.3.g. A plain-language summary of the audit findings, determinations, and recommendations in both Spanish and English.

II.C.3.h. Confidential business information must be clearly identified and be submitted in a separate, supplementary document to the audit report.

II.D. GHG BACT and Energy BMP Determination and Compliance

II.D.1. The Division will review the audit report and establish GHG BACT and energy BMPs for the EITE entity. The GHG BACT determination will account for each reduction control technologies and strategies considered GHG BACT for the

equipment and processes audited and be issued as a Division determination of an overall facility CO₂e intensity per unit of product manufactured.

II.D.1.a. Owners or operators of EITE entities must comply with the GHG BACT and energy BMPs determination.

II.D.1.b. The Division will hold one or more public meetings on the results of the final GHG BACT determinations.

II.D.1.c. The Division will brief the Commission on the final GHG BACT determinations during a scheduled Commission meeting after the final determination of GHG BACT for all EITE entities in the audit round.

II.D.2. If any GHG reduction control technologies and strategies is equal to or less than the social cost of carbon, these control technologies and strategies must be implemented unless the EITE entity demonstrates to the satisfaction of the audit team that technical considerations or energy, environmental, or economic impacts justify a conclusion that emissions reduction control technologies and strategies is not “achievable” in that case and would cause irrational cost or operational burden.

II.D.3. If the Division determines that the EITE entity is not certified under the EPA’s Energy Star Program and the EITE entity is not currently utilizing an externally reviewed SEM, the EITE entity must implement a SEM within one (1) year of the GHG BACT determination.

II.D.4. If the Division determines that the EITE entity currently employs GHG BACT and energy BMPs for the facility, the EITE entity will not be required to implement additional GHG controls during that five year audit cycle, unless the facility is modified in a manner that increases GHG emissions.

II.D.5. If the Division determines that the EITE entity does not currently employ GHG BACT and energy BMPs, the EITE entity must submit a compliance action plan within 90 days of the Division’s GHG BACT determination that includes the EITE entity’s plan and timeline to implement GHG BACT and energy BMPs as determined by the Division.

II.D.5.a. The Division will review the compliance action plan for approval.

II.D.5.b. Owners or operators of EITE entities must comply with the compliance action plan once approved by the Division.

II.D.5.c. Once the EITE entity is employing GHG BACT and energy BMPs for the facility as determined by the Division, the EITE entity will not be required to implement additional GHG controls during that five year audit cycle, unless the facility is modified in a manner that increases GHG emissions.

II.E. Alternative GHG Emissions Reductions Program Options

II.E.1. If the Division determines that the EITE entity does not currently employ GHG BACT and energy BMPs, in lieu of submitting a compliance action plan and installing GHG BACT the EITE entity may submit an alternative action plan within 90 days of the Division’s GHG BACT determination that includes the EITE entity’s planned actions and implementation timeline to achieve equal to or

greater reductions than would be achievable through the installation of GHG BACT as determined by the Division by

II.E.1.a. Actual direct GHG emission reductions elsewhere in the facility.

II.E.1.b. Actual direct GHG emission reductions at other regulated facilities in Colorado located within 25 miles of the EITE entity.

II.E.1.c. When considering alternative compliance options, the EITE entity must give increased priority to GHG reduction initiatives that would produce co-benefits to the neighboring communities surrounding the facility.

II.E.2. The Division will review the alternative action plan for approval. Owners or operators of EITE entities must comply with the alternative action plan once approved by the Division.

II.F. Reporting

II.F.1. Owners or operators of EITE entities must submit an annual update to the Division by May 1 of each year (beginning May 1, 2023) that includes

II.F.1.a. Actions taken to implement GHG BACT or energy BMPs.

II.F.1.b. Instances of non-conformance with the Division's approved GHG BACT determination, compliance action plan, or alternative action plan, reason(s) for non-conformance, and actions taken or planned to return to conformance.

II.G. Recordkeeping

II.G.1. EITE entities must maintain records for a period of five (5) years and make records available to the Division upon request, including

II.G.1.a. Division approved audit protocols.

II.G.1.b. Final audit reports.

II.G.1.c. Division GHG BACT and energy BMP determinations.

II.G.1.d. Division approved compliance action plans.

II.G.1.e. Division approved alternative action plans.

II.H. Permitting Requirements

II.H.1. The owner or operator of EITE entities must file a complete permit application including the GHG BACT determination, compliance action plan, and/or alternative action plan within 18 months from the Division's approval of the determination or plan(s).

II.H.2. The Division will incorporate the GHG BACT determination, compliance action plan, and/or alternative action plan into the EITE entity's permit as an applicable requirement.

III. Employee Traffic Reduction Program (ETRP)

III.A. Applicability

III.A.1. The provisions of Part B, Section III. apply to any large employer within the 8-hour ozone control area, other ozone nonattainment area, or ozone attainment maintenance area.

III.A.2. The provisions of Part B, Section III. are not federally enforceable, unless otherwise identified.

III.B. Definitions

III.B.1. "8-Hour Ozone Control Area" means the Counties of Adams, Arapahoe, Boulder (includes part of Rocky Mountain National Park), Douglas, and Jefferson; the Cities and Counties of Denver and Broomfield; and the following portions of the Counties of Larimer and Weld:

III.B.1.a. For Larimer County (includes part of Rocky Mountain National Park), that portion of the county that lies south of a line described as follows: Beginning at a point on Larimer County's eastern boundary and Weld County's western boundary intersected by 40 degrees, 42 minutes, and 47.1 seconds north latitude, proceed west to a point defined by the intersection of 40 degrees, 42 minutes, 47.1 seconds north latitude and 105 degrees, 29 minutes, and 40.0 seconds west longitude, thence proceed south on 105 degrees, 29 minutes, 40.0 seconds west longitude to the intersection with 40 degrees, 33 minutes and 17.4 seconds north latitude, thence proceed west on 40 degrees, 33 minutes, 17.4 seconds north latitude until this line intersects Larimer County's western boundary and Grand County's eastern boundary. ~~All units, operations, processes, and activities for which GHG emissions were calculated.~~

III.B.1.b. For Weld County, that portion of the county that lies south of a line described as follows: Beginning at a point on Weld County's eastern boundary and Logan County's western boundary intersected by 40 degrees, 42 minutes, 47.1 seconds north latitude, proceed west on 40 degrees, 42 minutes, 47.1 seconds north latitude until this line intersects Weld County's western boundary and Larimer County's eastern boundary.

III.B.2. "Division" means the Colorado Department of Public Health and Environment, Air Pollution Control Division.

III.B.3. "Employee" means every person in the service of an employer, under any contract of hire, express or implied, not including independent contractors or an elective official of the state, or of any county, city, town, irrigation, drainage, or school district thereof.

III.B.4. "Employee Traffic Reduction Program Plan or ETRP Plan" means a plan to reduce the emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas number of measurable vehicle miles from vehicles driven by employees commuting to and from their worksite by requiring employers to implement strategies designed to reduce the employees' SOV Drive Rate.

- III.B.5. “Employee~~er~~ Transportation Coordinator” means an individual or entity appointed by a large employer to develop, market, administer, and monitor the employer’s ETRP Plan(s) for an affected worksite(s).
- III.B.6. “Employer” means the federal government, and the state, and each county, city, town, irrigation, and school district therein, and all public institutions and administrative boards thereof having four or more employees; and every person, association of persons, firm, and private corporation, including any public service corporation, manager, personal representative, assignee, trustee, and receiver, who has four or more persons regularly engaged in the same business or employment in service under any contract of hire, expressed or implied. This definition of employer does not include employers in the operations covered under § 25-7-109(8)(a), C.R.S.
- III.B.7. “Large Employer” means an employer that employs 100 or more employees reporting or assigned to a single worksite. A large employer may have more than one worksite.
- III.B.8. “Ozone Nonattainment Area” means any area designated as not in attainment with the ozone National Ambient Air Quality Standard as determined by the Environmental Protection Agency.
- III.B.9. “Ridesharing” means transportation of more than one person in a vehicle or a zero emission vehicle for commute purposes to and from a worksite.
- III.B.10. “Single Occupancy Vehicle (SOV)” means a vehicle ~~with a driver and no passengers~~ traveling for commute purposes to and from a worksite with a driver and no passengers or with a hired driver and a single passenger, such as in a taxi or a ride procured through a transportation network company.
- III.B.11. “SOV Drive Rate” means the rate calculated by dividing the number of employees arriving at a worksite in non-ZEV single occupancy vehicles ~~vehicles that arrive at a worksite by the~~ -number of employees who report or are assigned to ~~a the~~ worksite, by the number of vehicles that arrive at the worksite, from all shifts, seven days a week, averaged over the calculation period.
- III.B.12. “Vehicle” means scooters, motorcycles and on-road vehicles ~~powered by a gasoline or diesel internal combustion engine.~~
- III.B.13. “Worksite” means a temporary or permanent building or grouping of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way.
- III.B.14. “Zero Emission Vehicle or ZEV” means a vehicle that produces zero or near-zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.

III.~~CB~~. Program Requirements

III.C.1. Employer Requirements

- III.C.1.a. By January 1, 2022, a large employer must submit an ETRP registration to the Division using a Division-approved form. Employers who become

subject to this Regulation 22, Part B, Section III, after January 1, 2022 will have 90 days to submit an ETRP registration to the Division using a Division-approved form. The registration must contain:

- III.C.1.a.(i) The large employer's business name, mailing address, and email address.
 - III.C.1.a.(ii) The identification of the large employer's ETRP-affected worksite(s), including the physical address(es) of each ETRP-affected worksite.
 - III.C.1.a.(iii) The total number of employees reporting or assigned to each of the large employer's ETRP-affected worksite(s).
 - III.C.1.a.(iv) The name and contact information of the Employee Transportation Coordinator(s) for the large employer's ETRP-affected worksite(s) unless submitting an exemption demonstration pursuant to Section III.F.3. A large employer that will be seeking an exemption demonstration must specifically note the intent to do so in its registration required under this Section III.C.1.a.
- III.C.1.b. A large employer that has an ETRP-affected worksite that falls below the 100-employee level after the large employer has registered the worksite with the Division must notify the Division in writing of the change in status for the worksite by the next applicable reporting deadline specified in Section III.E.1 or III.G.5.
- III.C.1.c. By January 1, 2022, a large employer must assign an Employee Transportation Coordinator. An employer that becomes subject to this Regulation 22, Part B, Section III, after January 1, 2022 will have 90 days to assign an Employee Transportation Coordinator. The name and contact information of the Employee Transportation Coordinator for an ETRP-affected worksite must be made available to each employee reporting or assigned to the worksite and included in the large employer's ETRP Plan for the worksite.
- III.C.1.d. By April 1, 2022, a large employer must complete a survey of all employees reporting or assigned to the employer's ETRP-affected worksite(s) unless using Division-approved data to assess employees' SOV Drive Rate for purposes of an exemption demonstration pursuant to Section III.F.1. Employers who become subject to this Regulation 22, Part B, Section III, after January 1, 2022 will have to complete the initial employee survey and submit the survey results to the Division within 180 days unless using Division-approved data to assess employees' SOV Drive Rate for purposes of an exemption demonstration pursuant to Section III.F.1, in which case the Division-approved data must be submitted to the Division within 180 days.
- III.C.1.e. A large employer must conduct subsequent surveys of all employees reporting or assigned to the employer's ETRP-affected worksite(s) by April 1 of each calendar year after the initial employee survey has been completed pursuant to Section III.C.1.d. unless using Division-approved data to assess employees' SOV Drive Rate for purposes of an exemption demonstration pursuant to Section III.F.2. If a large employer completes the initial employee survey between January 1 and March 31 and in compliance with Sections III.C.1.f. - III.C.1.n., the first subsequent employee survey is not due until April 1 of the following calendar year.
- III.C.1.f. Except as specified in Section III.C.1.i., a large employer must survey all employees from all shifts at the employer's ETRP-affected worksite(s) using a Division-approved

survey covering a minimum calculation period of seven calendar days for purposes of meeting the requirements of Sections III.C.1.d. and III.C.1.e.

III.C.1.g. At a minimum, the employee surveys pursuant to Sections III.C.1.d. and III.C.1.e. must ask:

III.C.1.g.(i) The travel distance from the employee's home to the worksite.

III.C.1.g.(ii) The frequency and mode(s) of transportation the employee used to get to and from the worksite.

III.C.1.g.(iii) The type of vehicle, including specification of whether the vehicle is a zero emission vehicle, if the employee is traveling in a Single Occupancy Vehicle (SOV) to and from the worksite.

III.C.1.g.(iv) How often the employee participates in ridesharing, telecommuting, or a compressed or flexible work week schedule.

III.C.1.g.(v) If the employee participates in ridesharing, the number of people traveling in the vehicle used to get to and from the worksite, and if the vehicle is a zero emission vehicle.

III.C.1.h. The large employer will strive to achieve a minimum response rate of 75 percent to the employee surveys completed pursuant to Sections III.C.1.d. and III.C.1.e. Where a large employer's survey response rate is less than 75 percent, any employees who do not respond to the survey will be assumed to have a one-hundred percent SOV rate for commuting to and from the worksite.

III.C.1.i. For purposes of meeting the requirements of Sections III.C.1.d. and III.C.1.e., large employers with more than 500 employees reporting or assigned to a worksite may survey a statistically valid random sample of the worksite employees using a Division-approved survey and must follow the Division's guidelines for random sampling. All employees selected for a random sample survey must respond to the survey. Any employees who do not respond to the survey will be assumed to have a one-hundred percent SOV rate for commuting to and from the worksite. All requirements of Sections III.C.1.g., and III.C.1.j. - III.C.1.n. will apply to random sample surveys.

III.C.1.j. The results of the employee surveys completed pursuant to Sections III.C.1.d. and III.C.1.e. must include the information reported for each of the survey elements identified in Section III.C.1.g. and:

III.C.1.j.(i) The closing or completion date of the survey.

III.C.1.j.(ii) The dates for which employees provided their commute mode information.

III.C.1.j.(iii) The number of employees surveyed and the number of surveys completed.

III.C.1.j.(iv) A description of the compressed or flexible work week schedule used by employees reporting or assigned to an ETRP-affected worksite if applicable.

III.C.1.j.(iv) The SOV Drive Rate for the large employer's ETRP-affected worksite(s).

III.C.1.k. Employees commuting to and from a worksite in a zero emission vehicle will not count as a vehicle arriving at the worksite in the SOV Drive Rate calculation completed pursuant to Section III.C.1.j.(iv).

III.C.1.l. Employees using vehicles for commute purposes as part of their job responsibility for emergency response will not be included in the SOV Drive Rate calculation completed pursuant to Section III.C.1.j.(iv) if those employees do not have the option, because of employer policies, to participate in a telecommuting program, compressed work week schedule, or as a rideshare driver.

III.C.1.m. Except for employees participating in a telecommuting program, employees who spend 20 percent or less of their work time per week at the worksite and either do not report to the worksite for pick-up of an employer-provided vehicle or do not return to the worksite at the end of the work day will not be included in the SOV Drive Rate calculation completed pursuant to Section III.C.1.j.(iv).

III.C.1.n. Employee travel from the worksite to another location to perform work duties will not be included in the SOV Drive Rate calculation completed pursuant to Section III.C.1.j.(iv).

III.C.1.o. A large employer must develop an ETRP Plan(s) for all of its ETRP-affected worksites that will include any of the control technologies and strategies outlined in Sections III.C.1.o.(i) ~~– III.C.1.o.(xvi)~~ and identify specific implementation details for each control technologies and strategies. Large employers with more than one ETRP-affected worksite may develop one ETRP Plan covering all worksites or separate ETRP Plans for each worksite. The ETRP Plan must be sufficient to accomplish the reductions in Sections III.D.1. and III.D.2. by the applicable deadline.

III.C.1.jo.(i) Commuting tracking system where employees record their commuting practices.

III.C.1.o.(ii) Real time transportation information such as transit schedules and ridesharing information made available in a prominent space at the worksite and provided to employees at least twice per year.

III.C.1.o.(iii) "Flexwork" policies to allow and/or encourage alternative work schedules and telework for employees with suitable positions. This may include:

III.C.1.o.(iii)(A) A policy allowing employees to work intermittently, part-time, or full-time at home (telework or telecommute).

III.C.1.o.(iii)(B) Alternative work schedules such as a compressed workweek allowing a full-time employee to eliminate at least one workday every two weeks by working longer hours during the remaining days, resulting in fewer commute trips to the worksite by the employee.

III.C.1.o.(iii)(C) Flexible scheduling to shift commute trips to the worksite by employees outside of the period between 6 a.m. and 9 a.m. ~~12 p.m.~~

III.C.1.o.(iv) Parking management, including:

- III.C.1.o.(iv)(A) The institution or increase in parking charges for non-ZEV SOVs arriving at the worksite or omitting any parking subsidy from an employee's benefits package and using employee onboarding processes and regular information sharing to discourage driving to and parking at a worksite in a non-ZEV SOV.
- III.C.1.o.(iv)(B) Providing parking at a daily rather than monthly rate.
- III.C.1.o.(iv)(C) Preferential parking and/or reduced or no parking charges at the worksite for ridesharing vehicles, zero emission vehicles, bicycles, and other forms of emerging micro-mobility.
- III.C.1.o.(iv)(D) A parking cash out program, providing payment for employees who do not use the worksite parking facilities.
- III.C.1.o.(iv)(E) Providing parking space for ridesharing vehicles or company-leased-or-owned vehicles for employee use.
- III.C.1.o.(v) Employee shuttles. This may be a circulator between employer locations, between park-and-ride facilities or transit hubs and employer locations, or over a longer distance to provide a route for which there is no public transit alternative or capacity and along which there is a density of potential users for one or more employers.
- III.C.1.o.(vi) Guaranteed ride home for employees who do not drive a vehicle to the worksite.
- III.C.1.o.(vii) Rideshare matching to connect employees and promote carpooling and vanpooling.
- III.C.1.o.(viii) Bicycle parking facilities and other active commute facilities including but not limited to lockers, changing areas, electric bicycle charging infrastructure, and showers for employees who walk or bicycle to work.
- III.C.1.o.(ix) Installation of low-/no-cost electric vehicle charging infrastructure at the worksite.
- III.C.1.o.(x) Use of zero emission vehicles for employees traveling to and from a worksite in a vehicle leased or owned by the employer.
- III.C.1.o.(xi) Subsidies and modal support, including:
 - III.C.1.o.(xi)(A) Subsidies for transit fares.
 - III.C.1.o.(xi)(B) Subsidies for carpool and vanpool participation.
 - III.C.1.o.(xi)(C) Provision of employer vans or third-party vans for vanpooling.
 - III.C.1.o.(xi)(D) Pre-tax transportation benefits allowing employees to use pre-tax pay for transit passes, bicycle share (or other emerging forms of micro-mobility) payments or passes, or vanpool use.
 - III.C.1.o.(xii) Coordination with local transit authorities for improved mass transit service in the large employer's area.

III.C.1.o.(xiii) On-site daycare facilities at the worksite.

III.C.1.o.(xiv) Recognition and rewards for employee participation in the ETRP Plan.

III.C.1.o.(xv) Any other measure(s) appropriate to the large employer that will reduce the SOV Drive Rate for the employer's worksite. These other measure(s) must be specifically identified in the ETRP Plan.

III.C.1.p. Large employers must notify all employees reporting or assigned to an ETRP-affected worksite(s) of the ETRP Plan, including any updates or changes to the plan, and employee options for participation in the plan.

III.D. Reduction Requirements

III.D.1. By July 1, 2022, large employers must begin implementing an ETRP Plan that is designed to achieve within twelve months an SOV Drive Rate of 75 percent or less if successfully utilized by employees. An employer that becomes subject to this Regulation 22, Part B, Section III after January 1, 2022 will have 180 days to begin implementing an ETRP Plan that is designed to achieve within twelve months an SOV Drive Rate of 75 percent or less if successfully utilized by employees. The SOV Drive Rate will be determined as part of the employee survey results required under Section III.C.1.j.

III.D.2. By July 1, 2024, large employers must begin implementing an ETRP Plan that is designed to achieve within twelve months an SOV Drive Rate of 60 percent or less if successfully utilized by employees. An employer that becomes subject to this Regulation 22, Part B, Section III after January 1, 2024 will have 180 days to begin implementing an ETRP Plan that is designed to achieve within twelve months an SOV Drive Rate of 60 percent or less if successfully utilized by employees. The SOV Drive Rate will be determined as part of the employee survey results required under Section III.C.1.j.

III.D.3. If a large employer fails to achieve the reductions in either Sections III.D.1. or III.D.2., then a large employer, upon determination of the SOV Drive Rate as required under Section III.C.1.j.(iv), must review its ETRP Plan and the implementation of the plan and make updates or modifications to achieve the applicable reduction requirement in Section III.D., and submit the revised plan to the Division pursuant to Section III.E.1.b.

III.D.4. If a large employer fails to achieve the applicable reduction requirements in this Section III.D. after three consecutive SOV Drive Rate determinations per Section III.C.1.j.(iv), then a large employer must evaluate whether the required reductions may be achieved through implementation of an Alternative Compliance Plan, in place of or in conjunction with the large employer's ETRP Plan, pursuant to Section III.G. Details of that evaluation must be included with the submission of the large employer's next ETRP Plan pursuant to Section III.D.3.

III.E. Reporting and Recordkeeping

III.E.1. Reporting

III.E.1.a. By July 1, 2022, a large employer must submit to the Division the initial employee survey results required under Section III.C.1.j., and its ETRP Plan as outlined in Section III.C.1.o. An employer that becomes subject to this Regulation 22, Part B, Section III after January 1, 2022 will have 180 days to submit to the Division the initial employee survey results required under Section III.C.1.j., and the ETRP Plan as outlined in Section III.C.1.o.

III.E.1.b. By July 1, 2023 and July 1 of every year thereafter, a large employer must submit to the Division the most recent subsequent employee survey results required under Section III.C.1.j., and its ETRP Plan as outlined in Section III.C.1.o. if the plan has been updated or revised by the employer since the prior reporting date.

III.E.1.c. Submissions to the Division pursuant to Sections III.E.1.a. and III.E.1.b. must also include a certification by the large employer that:

III.E.1.c.(i) The survey results are true and accurate to the best of the employer's knowledge.

III.E.1.c.(ii) The ETRP Plan, if required to be included in the submission, is designed to achieve the applicable SOV Drive Rate reductions set forth in Sections III.D.1. and III.D.2. if successfully utilized.

III.E.1.c.(iii) The ETRP Plan will be implemented as submitted.

III.E.1.d. If a large employer submits its initial employee survey results and ETRP Plan pursuant to Section III.E.1.a. between January 1 and June 30, the first subsequent employee survey results pursuant to Section III.E.1.b., and updated ETRP Plan if applicable, are not due until July 1 of the following calendar year.

III.E.1.e. The Division may notify a large employer of any deficiencies in a submitted ETRP Plan, based on the criteria in Section III.C.1.e. The large employer will have 90 days to correct the deficiencies and resubmit the plan to the Division and must begin implementing the plan within 30 days of resubmitting it to the Division.

III.E.2. Recordkeeping

III.E.2.a. Large employers must maintain the following records for a period of three years and make such information available to the Division upon request.

- III.E.2.a.(i) The employee survey results required under Section III.C.1.j.
- III.E.2.a.(ii) The large employer's ETRP Plan as required under Section III.C.1.o.
- III.E.2.a.(iii) Records of steps taken to implement measures in the ETRP Plan.
- III.E.2.a.(iv) Annual reports submitted in accordance with Section III.E.1.
- III.E.2.a.(v) Any exemption demonstrations submitted to the Division per Section III.F.3., including Division-approved data that assesses employees' ~~annual~~ SOV Drive Rate for purposes of the exemption demonstration if applicable.
- III.E.2.a.(vi) Approved alternative compliance plans and associated emissions reductions documentation pursuant to Section III.G. if applicable.

III.F. Exemptions

- III.F.1. If the results of a large employer's initial employee survey completed in accordance with Section III.C.1.d. or other Division-approved data provided by the employer that assesses employees' ~~annual~~ SOV Drive Rate demonstrates the large employer is achieving the applicable reduction requirement under Section III.D., the large employer is exempt from the requirements of Sections III.C.1.c. and III.C.1.o., and the ETRP Plan reporting requirements of Section III.E.1. The large employer is also exempt from Section III.C.1.d. and the survey reporting requirements of Section III.E.1. if using other Division-approved data to demonstrate an exemption under this Section III.F.
- III.F.2. Large employers who demonstrate an initial exemption under Section III.F.1. must continue to demonstrate an exemption through the results of the subsequent employee surveys completed in accordance with Section III.C.1.e. or other Division-approved data provided by the employer that assesses employees' ~~annual~~ SOV Drive Rate that shows the applicable reduction requirement under Section III.D. is being achieved.
- III.F.3. The initial exemption demonstration pursuant to Section III.F.1. must be submitted to the Division by July 1, 2022. An employer that becomes subject to this Regulation 22, Part B, Section III after January 1, 2022 will have 180 days to submit an initial exemption demonstration to the Division. Subsequent exemption demonstrations must be submitted to the Division by July 1 each year thereafter. If a large employer submits its initial exemption demonstration to the Division between January 1 and July 1, the first subsequent exemption demonstration is not due until July 1 of the following calendar year.
- III.F.4. If the results of an employee survey or other Division-approved data provided by a large employer that assesses employees' ~~annual~~ SOV Drive Rate shows the applicable reduction requirement under Section III.D. is no longer being achieved by the employer after demonstrating an initial or subsequent exemption, the large employer must meet the requirements of Sections III.C.1.c. and III.C.1.o. within 180 days of obtaining the annual survey or SOV Drive Rate results and is subject

to the survey requirements in Section III.C.1.e. and the full reporting requirements applicable in Section III.E.1.

III.F.5. Large employers who meet the exemption requirements in this Section III.F. must comply with all other applicable requirements of this Regulation 22, Part B, Section III.

III.G. Alternative Compliance

III.G.1. A large employer may demonstrate compliance with the requirements of this Regulation 22, Part B, Section III through use of an alternative compliance approach, such as worksite equipment or process changes or improvements, corporate or employer vehicle emission reductions, or other Division-approved approaches that are not otherwise required by an existing law, regulation, or ordinance.

III.G.2. The alternative compliance approach(es) may be implemented in place of or in conjunction with an ETRP Plan and must be designed to achieve equivalent or greater emission reductions than the implementation of just an ETRP Plan required under Section III.C.1.o.

III.G.3. Alternative compliance under this Section III.G. will be demonstrated by a plan that describes the alternative compliance approach(es) and includes estimated emissions reductions expected to result from implementation of the plan and all substantiating information and calculations to support the estimated emissions reductions, which must be approved by the Division.

III.G.4. All applicable requirements of this Regulation 22, Part B, Section III. are effective until an Alternative Compliance plan for a large employer is approved by the Division.

III.G.5. A large employer must submit documentation of alternative compliance emissions reductions achieved on an annual and cumulative basis to the Division beginning July 1 of the calendar year following the calendar year that the approved alternative compliance plan is approved in, and each July 1 thereafter. The reported annual and cumulative emissions reduction totals must be for the period ending December 31 of the calendar year prior to the reporting deadline.

PART D Statement of Basis, Specific Statutory Authority, and Purpose

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II. Adopted: August 19, 2021

Revisions to Regulation Number 22, Part B, Sections I - III.

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the State Administrative Procedure Act, § 24-4-103(4), C.R.S., the Colorado Air Pollution Prevention and Control Act, §§ 25-7-110 and -110.5, C.R.S., and the Air Quality Control Commission's ("Commission") Procedural Rules, 5 C.C.R. §1001-1.

Basis

In HB 19-1261, now codified in part at §§ 25-7-102(2) and -105(1)(e), C.R.S., the General Assembly declared that “[c]limate change adversely affects Colorado’s economy, air quality and public health, ecosystems, natural resources, and quality of life[.]” acknowledged that “Colorado is already experiencing harmful climate impacts[.]” and that “[m]any of these impacts disproportionately affect” certain disadvantaged communities. § 25-7-102(2), C.R.S. The General Assembly also recognized that “[b]y reducing greenhouse gas pollution, Colorado will also reduce other harmful air pollutants, which will, in turn, improve public health, reduce health care costs, improve air quality, and help sustain the environment.” § 25-7-102(2)(d), C.R.S.

Consequently, the General Assembly updated Colorado’s statewide greenhouse gas (GHG) pollution reduction goals so as to achieve a 26% reduction of statewide GHG by 2025; 50% reduction by 2030; and 90% reduction by 2050 as compared to 2005 levels. § 25-7-102(2)(g), C.R.S. Statewide GHG pollution is defined as “the total net statewide anthropogenic emissions of carbon dioxide [(CO₂)], methane [(CH₄)], nitrous oxide [(N₂O)], hydrofluorocarbons [(HFCs)], perfluorocarbons [(PFCs)], nitrogen trifluoride [(NF₃)], and sulfur hexafluoride [(SF₆)] expressed as carbon dioxide equivalent [(CO₂e)] calculated using a methodology and data on radiative forcing and atmospheric persistence deemed appropriate by the commission.” § 25-7-103(22.5), C.R.S.

Section 25-7-105(1)(e), C.R.S., sets forth the framework for developing GHG abatement rules consistent with the statewide GHG pollution reduction goals in § 25-7-102(2)(g), C.R.S. This provision grants the Commission broad authority to regulate GHG emissions in order to accomplish these goals.

Further, effective January 27, 2020, the Environmental Protection Agency (EPA) classified the DMNFR as Serious nonattainment for ozone, after 2015-2017 monitoring data failed to show attainment of the 2008 8-hour Ozone National Ambient Air Quality Standard (NAAQS) of 75 parts per billion (ppb) by July 20, 2018. See 84 Fed. Reg. 70,897 (Dec. 26, 2019). Based on 2018-2020 ozone monitoring data, Colorado expects that EPA will reclassify the DMNFR as a Severe ozone nonattainment area under the 2008 NAAQS. EPA has also designated the DMNFR as Marginal nonattainment for the 2015 ozone NAAQS of 70 ppb, with an attainment date of August 3, 2021.

Since 2019, CDPHE has been rigorously developing a plan in collaboration with an array of State Agencies and stakeholders to evaluate and set forth the path for Colorado to achieve the ambitious GHG pollution reduction goals in § 25-7-102(2)(g), C.R.S. In January 2021, the State published its Greenhouse Gas Pollution Reduction Roadmap (Roadmap). Colorado Energy Office, Colorado Greenhouse Gas Pollution Reduction Roadmap (Jan. 14, 2021). The Roadmap identified the transportation sector as the single largest source of statewide GHG pollution as of 2020, with passenger vehicles the largest contributor. Id. at III. Additionally, the Roadmap determined that emissions from transportation are a “significant contributor to local air pollution that disproportionately impacts lower-income communities and communities of color.” Id. at XII. Vehicle miles travelled (VMT) reduction strategies are a key component to achieving these reductions. Id. at 63.

In order to evaluate the utilization of, and potential emissions reductions from, GHG best available control technologies (BACT) and best available energy efficiency practices (energy BMP) in energy-intensive trade-exposed manufacturing sources, the Commission adopted in Regulation Number 22, Part B, Section II, rules governing emission control and energy inventory audits from these sources.

In order to further reduce statewide GHG pollution and ozone precursors from the transportation sector consistent with §§ 25-7-102(2), -105(1)(e), -106(1), C.R.S., the Commission adopted revisions to Regulation Number 22, Colorado Greenhouse Gas Reporting and Emission Reduction Requirements in Part B, Section III, governing employee traffic associated with large employers with worksites in ozone control, nonattainment, or attainment maintenance areas in the state.

The Commission also amended Regulation 22, Part B, Section I, to revise the definitions of “Rigid Polyurethane High-pressure Two-component Spray Foam” and “Rigid Polyurethane Low-pressure Two-component Spray Foam” found in the existing Hydrofluorocarbons (HFC) prohibitions rule (Part B, Sections I.B.40. and I.B.41.) to more accurately describe the noted products or end-uses.

Specific Statutory Authority

The Colorado Air Pollution Prevention and Control Act (Act), specifically § 25-7-105(1), C.R.S., directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102, C.R.S., and that are necessary for the proper implementation and administration of the Act.

Section 25-7-105(1)(e), C.R.S., authorizes the Commission to promulgate implementing rules and regulations consistent with the statewide GHG pollution reduction goals in § 25-7-102(2)(g), C.R.S. In adopting GHG abatement strategies and implementing rules, the Commission is authorized to take into account other relevant laws and rules to enhance efficiency and cost-effectiveness and solicit input from other state agencies and stakeholders on the advantages of different statewide GHG pollution mitigation measures. § 25-7-105(1)(e)(II), (IV), C.R.S. Implementing rules may include regulatory strategies that “enhance cost-effectiveness, compliance flexibility, and transparency around compliance costs.” § 25-7-105(1)(e)(V), C.R.S. Further, in promulgating such implementing rules, the Commission is to consider many factors, including, but not limited to: health, environmental, and air quality benefits and costs; the relative contribution of each source or source category to statewide GHG pollution; equitable distribution of the benefits of compliance; issues related to the beneficial use of electricity to reduce GHG emissions; and whether greater or more cost-effective emission reductions are available through program design. § 25-7-105(1)(e)(VI), C.R.S.

Section 25-7-106, C.R.S., provides the Commission “maximum flexibility in developing an effective air quality program and [promulgating] such [a] combination of regulations as may be necessary or desirable to carry out that program.” Section 25-7-109(1), C.R.S., authorizes the Commission to adopt and promulgate emission control regulations that require the use of effective practical air pollution controls for each type of facility, process, or activity which produces or might produce significant emissions of air pollutants. An “emission control regulation” may include “any regulation which by its terms is applicable to a specified type of facility, process, or activity for the purpose of controlling the extent, degree, or nature of pollution emitted from such type of facility, process, or activity. . . .” § 25-7-103(11), C.R.S. Emission control regulations may pertain to any chemical compound including GHG pollution and emissions of ozone precursors. See § 25-7-109(2)(c), C.R.S.

Purpose

The following section sets forth the Commission’s purpose in amending Regulation Number 22 to include Parts B.I, II, III, and IV, and includes the technological and scientific rationale for these amendments:

Part B.I: Amendments to definitions of certain HFC end-uses

The Commission amended the definitions of “Rigid Polyurethane High-pressure Two-component Spray Foam” and “Rigid Polyurethane Low-pressure Two-component Spray Foam” in Regulation 22, Part B, Section I to more accurately describe these products or end-uses. Because the definitions adopted in May 2020 were not technically accurate in describing the end-uses, there was concern the end-uses may not be actually covered under the rule as was intended. The definitions adopted in May 2020 came from the U.S. Climate Alliance’s model framework for HFC regulation and were based on language describing the noted end-uses in the preamble to the EPA Significant New Alternatives Policy (SNAP) Program, Rule 21.

Part B.II: GHG Emissions and Energy Efficiency Management for the Manufacturing Industry in Colorado

The Commission adopted Regulation Number 22, Part B, Section II to give effect to the requirements of § 25-7-105(1)(e)(IX), C.R.S., and further the reduction of statewide GHG pollution consistent with § 25-7-102(2)(g), C.R.S., as applicable to energy-intensive trade-exposed (EITE) manufacturing sources.

Section 25-7-105(1)(e)(IX), C.R.S., authorizes the Commission to require energy-intensive, trade-exposed manufacturing sources, “to execute an energy and emission control audit, according to criteria established by the [C]ommission, of the source’s operations every five years through at least 2035.” The intent of the audit is to determine whether covered sources are employing “best available emission control technologies for [GHG] emissions [(GHG BACT)] and best available energy efficiency practices [(energy BMPs)]”.

The energy and emissions control audit will analyze GHG BACT for the equipment and processes in the facility that release the top 80% of the facility’s GHG emissions. This assures that the audit captures the largest emitting equipment and processes. The GHG BACT analysis and prioritization process will consider, among other factors, existing facility permit limits, limits and emissions data available for similar operations, cost-effectiveness, pollution reduction co-benefits to local communities, and the social cost of carbon. The cost-effectiveness determination will include a life-cycle cost analysis with consideration of the full lifetime of the measure. The cost-effectiveness determination will also include a comparison to direct competitors and international markets for steel and cement.

The EITE entity will be determined to be using Energy Best Management Practices if the facility is certified under the EPA Energy Star Program, and thus in compliance with the best available energy efficiency practices for the facility. If the EITE entity is not certified under the EPA’s Energy Star Program, the EITE entity must perform a Strategic Energy Management (SEM) analysis of the facility, utilizing the results to inform the recommendation of energy BMPs. If the EITE entity is currently using a certified or externally reviewed SEM, that information may be used to inform the audit team’s recommendations for facility energy BMPs.

The Commission determined that the audit procedures and requirements set out in Part B, Section II, establish the criteria by which the Commission can determine, on a five-year basis, whether EITE manufacturing sources are employing GHG BACT and energy BMP. The Commission has determined the audit process is cost-effective and reasonable to achieve these ends.

If any GHG reduction measure identified in the audit through the GHG BACT analysis, is equal to or less than the social cost of carbon, these measures must be taken unless the EITE entity can show it would cause an undue hardship on the company. GHG BACT recommendations that provide greater pollution reduction co-benefits to the surrounding communities where two or more control technologies or strategies are comparable in terms of cost and GHG reductions must be prioritized. If an EITE is not certified under the EPA’s Energy Star Program and the EITE entity is not currently utilizing an externally reviewed SEM analysis, the EITE entity must implement a SEM analysis within one (1) year of that determination.

Where an EITE entity is determined to be currently employing GHG BACT and energy BMPs in satisfaction of § 25-7-105(1)(e)(IX)(A), C.R.S., the EITE entity will not be required to implement additional GHG BACT during that five year audit cycle, unless the facility is modified in a manner that increases actual GHG emissions. If the Division determines that the EITE entity does not currently employ GHG BACT and energy BMPs in satisfaction of § 25-7-105(1)(e)(IX)(A), C.R.S., the EITE entity must submit a compliance action plan within 90 days of the Division’s GHG BACT determination that includes the EITE entity’s plan and timeline to implement GHG BACT and energy BMPs as determined by the Division. Once the EITE entity completes the compliance action plan and is deemed to be employing GHG BACT and energy BMPs for the facility in in satisfaction of § 25-7-105(1)(e)(IX)(A), C.R.S., as determined by the Division, the EITE entity will not be required to implement additional GHG controls during that five year audit cycle, unless the facility is modified in a manner that increases actual GHG emissions.

Further, in lieu of submitting a compliance action plan and installing GHG BACT, an EITE entity that does not employ GHG BACT and energy BMPs in satisfaction of § 25-7-105(1)(e)(IX)(A), C.R.S., may submit an alternative action plan within 90 days of the Division’s GHG BACT determination. An alternative action plan must include the EITE entity’s planned actions and implementation timeline to achieve equal to or greater reductions than would be achievable through the installation of GHG BACT. Alternative action plans can consist of demonstrated GHG emission reductions from the EITE entity or from other facilities

within a specified nexus to the EITE facility. Reducing emissions from the EITE entity or other facilities nearby the EITE entity will benefit neighboring communities. Alternative action plans allow EITE entities additional flexibility to comply with this Part B, Section II, but do not satisfy the requirements for GHG BACT and energy BMPs as set forth in § 25-7-105(1)(e)(IX)(A), C.R.S.

Part B, Section III: ETRP

The Commission adopted Regulation Number 22, Part B, Section III, as an implementing rule under § 25-7-105(1)(e), C.R.S. and an emission control regulation under §§25-7-106 and -109, C.R.S., to reduce air pollution, including GHG and ozone precursor emissions, from the transportation sector. Specifically, this Part B, Section III addresses emissions associated with the activity of commuting by employees to and from large employer worksites using single occupancy vehicles (SOVs). As such, reducing single occupancy vehicle travel through transportation demand management (TDM), including employee traffic reduction programs (ETRP), is a “core strategy in reducing VMT.” Id. at 64. Moreover, if the Denver Metro North Front Range (DMNFR) area is re-designated as Severe nonattainment for ozone, TDM requirements like ETRP may be required under the Federal Act and regulations. See 42 U.S.C. § 7511a(d)(1).

Large employer plans to reduce vehicle miles traveled by employees who commute to and from a worksite will be implemented through measures such as telecommuting, flexible work schedules, public transit, ridesharing (carpool, vanpool), employee shuttles, and/or other methods that meet employers’ specific capabilities and business needs. These plans will reduce vehicle emissions and have co-benefits such as reducing traffic congestion and wear-and-tear on transportation infrastructure. ETRP also provides a variety of other potential benefits, including financial savings and enhanced quality of life for employees, reduced overhead costs for employers, and improved employee recruitment and retention. There are at least 27 programs like these already working successfully throughout the United States, and a few Transportation Management Associations within the Front Range ozone nonattainment area already offer voluntary programs in which employers participate.

Part B, Section III applies to employers with 100 or more employees assigned or reporting to an employer’s worksite in the Denver Metro Northern Front Range ozone nonattainment area (NAA). This scope of applicability was influenced by EPA guidance, which identifies a 100-employee threshold for commute reduction programs like ETRP adopted by states for ozone nonattainment areas. See EPA’s, Employee Commute Options Guidance (Dec. 1992) (based on a prior version of Clean Air Act, Section 182(d)(1)(B) (42 U.S.C. § 7511a(d)(1)(B)) (1990)). The 100 or more employer threshold is commonly used in commute reduction programs in other jurisdictions, including Pima County, AZ, Sacramento County, AZ, Campbell, CA, Tahoe, CA, Portland, OR, and at least 22 jurisdictions in Washington state. Additionally, the majority of employers statewide at the 100-employee threshold are found in the NAA (75% or 2,763 out of 3,686 employers statewide at that threshold). Further, implementation of the state’s ETRP rule will depend on support from Transportation Management Associations or Organizations (TMAs/TMOs) in the state, nearly all of which are located in or focused on the NAA.

Affected large employers must identify an employee transportation coordinator (ETC) to be responsible for the employer’s ETRP program and be the primary point of contact with the Division. A large employer may have an ETC for each of its affected worksites or one ETC for all its affected worksites. The ETC can be an internal employee or an outside entity contracted by the employer to fulfill requirements of this program. This entity can include, but is not limited to, consultants, TMAs/TMOs, and MPOs. ETC tasks may include, but are not limited to, meeting with employees to talk about the benefits of carpooling, vanpooling, electric vehicles, bicycling, or riding transit; assisting employees with ride matching to form carpools or vanpools; promoting the worksite ETRP to employees by producing and distributing information pieces; coordinating the distribution and collection of biennial annual ETRP surveys to all employees; tracking employees’ participation in specific program elements; completing the ETRP annual report; evaluating ETRP and making enhancements when necessary; briefing management on the ETRP’s progress; and maintaining ETRP related documents and survey results.

Central to the ETRP program are the initial and annual employee surveys that will be utilized to determine the annual SOV Drive Rate for the employer's affected worksite(s). Employers with more than 500 employees reporting or assigned to a worksite will have the option to conduct a random sampling survey. The Division will develop random sampling survey guidelines consistent with random sampling survey methodology used in commute reduction programs in other jurisdictions. The survey metrics will be used to assess the effectiveness of the employer's ETRP program and to evaluate compliance with the ETRP reduction requirements, and the survey results will be submitted to the Division for compliance purposes. Both the surveys and submission of the survey results to the Division will only have to be completed once per calendar year as specified by the applicable deadlines laid out in Part B, Section III. Information from these surveys will also provide more important information about emissions from the transportation sector associated with employee travel to and from their workplaces.

Unless exempted under Section III.F., ETRP-affected large employers must develop and implement an ETRP Plan designed to reduce SOV Drive Rates for affected worksites. A large employer may develop a separate ETRP Plan for each of its affected worksites or one ETRP Plan for all its affected worksites. Section III.D. establishes the SOV Drive Rates that ETRP Plans must be designed to achieve across all of a large employer's affected worksites. These requirements are phased in such that employers must implement ETRP Plans designed to reduce their average SOV Drive Rates by 25 percent between 2022-2024 and by 40% after July 2024. Affected employers are afforded significant flexibility to select measures or strategies that are best suited to the employer so long as the plan, as designed, will accomplish the reduction goals set forth in Section III.D. if the measures and strategies offered by the employer are successfully utilized by employees. As such, each ETRP-affected employer is responsible for developing and implementing an ETRP Plan designed to achieve the necessary reductions, not for compelling its employees to utilize the plan, although employees must be made aware of the plan and their options for participating in it.

An affected employer that does not achieve the Section III.D.'s SOV Drive Rate reduction requirements must review, update, and resubmit its ETRP Plan to the Division. After failing to meet the reduction requirements three years in a row, an ETRP-affected employer must evaluate whether it can achieve reductions in GHG and ozone precursor emissions equal to or greater than those that would be accomplished through meeting the SOV Drive Rate reduction goals through alternative compliance measures that are not otherwise required by any other law, regulation or ordinance.

As noted, an ETRP-affected employer may also demonstrate an exemption from the ETRP Plan as well as the ETC requirements of Part B, Section III if the employer can demonstrate through the results of the initial employee survey that the employer is already achieving the SOV Drive Rate reductions in Section III.D. An employer may use other data that shows the SOV Drive Rate in place of the employee survey to demonstrate the exemption if approved by the Division. This alternative exemption demonstration option is primarily meant for employers who may have existing employee commute reduction programs in place, such as through voluntary measures like the Way to Go partnership offered by the Denver Regional Council of Governments (DRCOG), that have measures to assess the SOV Drive Rate for employees. Similar to the employee survey result submissions, the exemption demonstrations will only have to be submitted by an employer to the Division once per calendar year.

Additional Considerations

The following are additional findings of the Commission made in accordance with the Act:

Section 25-7-110.5(5)(b), C.R.S.

As these revisions exceed and may differ from the federal rules under the federal act, in accordance with § 25-7-110.5(5)(b), C.R.S., the Commission determines:

Part B.I: The Commission amended two definitions in this rule in order to more accurately describe these products or end-uses. These amendments do not alter or change the analysis of these additional

considerations under § 25-7-110.5, C.R.S., for Part B, Section I that was conducted at the time of its original adoption in May 2020.

(I) Any federal requirements that are applicable to this situation with a commentary on those requirements:

Part B.II: EITE Entities are required to report GHG emissions under existing federal regulations; however, there are no current federal regulations requiring these entities to conduct GHG BACT and energy audits.

Part B.III: Transportation demand management measures, such as ETRP, are recognized as a potential SIP control strategy for areas designated as “severe” nonattainment. 42 U.S.C. § 7511a(d)(1). Pursuant to this section, a state may require employers to implement programs to reduce work-related vehicle trips and miles travelled by employees. As the DMNFR has not yet been designated as being in “severe” nonattainment for the 2008 8-hour Ozone National NAAQS and to the extent ETRP is being used toward Colorado achieving its GHG reduction goals, there are no underlying federal requirements for ETRP. It should be noted that EPA guidance on Employee Commute Options for implementing commute reduction efforts in ozone nonattainment areas helped inform the contents and development of the ETRP rule.

(.) Whether the applicable federal requirements are performance-based or technology-based and whether there is any flexibility in those requirements, and if not, why not:

Part B.II: EITE Entities are required to report GHG emissions under existing federal and state regulations, however there are no current federal regulations requiring these entities to conduct GHG BACT and energy audits.

Part B.III: There are no federal requirements for ETRP currently applicable to Colorado. However, the requirement is performance-based, as the regulation requires employers to develop flexible plans to achieve the stated standards. The state deployed discretion in determining what elements to include in the rule so as to achieve the needed emission reductions. Employers have discretion in how they develop trip reduction plans that will work for them and in how the plans are implemented.

(I) Whether the applicable federal requirements specifically address the issues that are of concern to Colorado and whether data or information that would reasonably reflect Colorado’s concern and situation was considered in the federal process that established the federal requirements:

Part B.II: Federal law does not have requirements or programs addressing the control of GHG emissions from industrial manufacturing entities.

Part B.III: As noted, there are no federal requirements for ETRP currently applicable to Colorado. However, the federal requirements outlined in the Clean Air Act provided guidance for the State of Colorado in terms of strategies to be implemented in order to bring the region into compliance with NAAQS, which include TDM efforts such as ETRP. Improving the DMNFR region’s air quality is an imperative concern for all residents of the state and reductions in GHG emissions in this region also contribute to the goal of achieving statewide GHG reductions required under statute.

(II) Whether the proposed requirement will improve the ability of the regulated community to comply in a more cost-effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later:

Part B.II: This section gives meaningful effect to § 25-7-105(1)(e)(IX), C.R.S., and provides regulated entities flexibility to cost-effectively employ BACT and energy BMPs to reduce GHG emissions. Regulated entities that demonstrate effective employment of BACT and energy BMPs are afforded certainty with respect to direct non-administrative costs associated with at least ninety-five percent of the source’s GHG emissions. Regulated entities that do not demonstrate effective employment of BACT and energy BMPs

are also afforded flexibility to cost-effectively reduce GHG emissions. If they choose to install GHG BACT as determined by the Division they are provided certainty about additional regulatory requirements once the source meets GHG BACT standards through the installation of GHG BACT. Additionally, Part B.II. allows regulated entities to propose an alternative action plan for emission reductions, rather than installing GHG BACT, to reduce the need for costly retrofit and provide additional flexibility to the EITE entity.

Part B.III: The ETRP requirements of Part B, Section III, apply to large employers with 100 or more employees at an individual worksite. ETRP will require that these large employers develop and implement a flexible plan to reduce employee SOV commuting to and from the worksite. ETRP can often provide net savings for employers and employees based on reduced overhead costs and reduced fuel and maintenance costs for employees.

(V) *Whether there is a timing issue which might justify changing the time frame for implementation of federal requirements;*

Part B.II: There are no applicable federal requirements. Part B.II. allows regulated entities a reasonable time to comply with the audit and action plan requirements and allows opportunities for alternative compliance.

Part B.III: There are no federal requirements for ETRP currently applicable to Colorado. There is, however, EPA guidance on Employee Commute Options that informed the contents of this rule. The timing of this regulation was developed with consideration of ozone NAAQS attainment deadlines, as well as state GHG emissions reduction goals.

(VI) *Whether the proposed requirement will assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth;*

Part B.II: Part B.II. affords regulated entities significant flexibility for compliance including selection of appropriate BACT and energy BMPs. As such, regulated entities are afforded a reasonable margin for accommodation of uncertainty and future growth.

Part B.III: ETRP allows subject employers to flexibly respond to changes in company size and other factors while still maintaining effective ETRP programs and accomplishing requisite reductions in SOV rates and associated GHG emissions.

(VII) *Whether the proposed requirement establishes or maintains reasonable equity in the requirements for various sources;*

Part B.II: All qualifying EITE entities are equally subject to the audit and action plan requirements. Likewise, all regulated entities are afforded opportunities to select and apply BACT or other measures to achieve GHG emission reductions or to utilize alternative compliance options at an entity's discretion.

Part B.III: ETRP applies equally to all subject large employers throughout the nonattainment area based on a set threshold of employees reporting to an employer's individual worksite(s). All affected employers are subject to the same requirements in the rule.

() *Whether others would face increased costs if a more stringent rule is not enacted;*

Part B.II: The General Assembly has acknowledged that climate change impacts Colorado's economy and directed that GHG emissions should be reduced across the many sectors of our economy. Colorado has established specific GHG reduction goals. Reductions not achieved in one sector will require measures in other sectors of the economy to achieve the state's GHG reduction goals. However, the General Assembly further provided requirements that energy-intensive and trade-exposed entities demonstrate use of BACT and energy BMPs through an audit process and limited the Commission's

ability to impose additional reductions on at least ninety-five percent of the source's GHG emissions where such measures are effectively employed. See § 25-7-105(1)(e)(IX), C.R.S.

Part B.III: As a contributor to ozone nonattainment and climate change, mobile source emissions represent a cost to Coloradans and Colorado businesses. In order to meet the goals of ozone attainment and legislatively mandated goals for reduction of GHG emissions, emissions reductions not gained from ETRP may need to be made up in other sectors.

(IX) Whether the proposed requirement includes procedural, reporting, or monitoring requirements that are different from applicable federal requirements and, if so, why and what the "compelling reason" is for different procedural, reporting, or monitoring requirements;

Part B.II: Part B.II. gives effect to the General Assembly's adoption of 25-7-105(1)(e)(IX), C.R.S., which includes a requirement for energy-intensive trade-exposed entities to execute energy and emission control audits that are not required under federal regulations. This is a compelling reason, as these audits will inform the state's strategies and future regulations to accomplish the statewide GHG pollution reduction goals and address the impacts of climate change set forth in § 25-7-102(2), C.R.S.

Part B.III: While there are no federal ETRP requirements currently applicable to Colorado, EPA's Employee Commute Options Guidance has relevant information used for developing procedural, reporting, and monitoring requirements in the ETRP rule. See EPA, Employee Commute Options Guidance, published (Dec. 1992).

(X) Whether demonstrated technology is available to comply with the proposed requirement;

Part B.II: Part B, Section II does not require the use of any specific technology but instead serves as a mechanism to evaluate the control technologies and energy efficiency practices regulated entities are employing and to determine the effectiveness of those measures already in use.

Part B.III: While ETRP is a performance-based requirement, there are existing strategies and resources available to help subject employers comply. As voluntary initiatives have been deployed in Colorado for many years and mandatory programs have been in place for more than 25 years across the country, there are numerous tools and resources available to assist with compliance. These include sample ETRP implementation plans, survey tools, and employee commute behaviour tracking software and dashboards. These resources are presently available at reduced or no cost from Colorado's metropolitan planning organizations, transportation management associations, and consultants.

(XI) Whether the proposed requirement will contribute to the prevention of pollution or address a potential problem and represent a more cost-effective environmental gain;

Part B.II: This rule will enable the Commission to determine whether energy-intensive trade-exposed manufacturing entities are employing BACT and energy BMPs to effectively minimize GHG emissions from regulated facilities. To the extent regulated entities are not employing BACT and energy BMPs to reduce GHG emissions, those facilities must reduce emissions by either implementing BACT and energy BMPs at the facility or reducing GHG emissions through alternative compliance options.

Part B.III: It is estimated that this rule will achieve approximately 1 ton per day and 2 tons per day of ozone precursors in 2023 and 2025, respectively, and an estimated 487,212 and 751,752 tons per year CO₂e of GHG emissions in 2023 and 2025, respectively. These important emission reductions are necessary to assist the State in achieving required GHG emission reductions and ozone NAAQS compliance.

(XII) Whether an alternative rule, including a no-action alternative, would address the required standard.

Part B.II: This rule implements the statutory requirements of § 25-7-105(1)(e)(IX), C.R.S. Alternatives exist for how to accomplish these requirements, including different emission thresholds for qualifying entities, different standards for evaluating BACT and energy BMPs, and the provision of no or differing means of alternative compliance. The Commission determined that Part B.II. appropriately gives effect to the statutory requirements and is consistent with the statewide GHG pollution reduction goals. To the extent the Commission intends to address GHG emissions from EITE entities, a no-action alternative is not available.

Part B.III: No action would maintain the status quo, and commute-related emissions would likely continue to increase at a greater rate as the population grows in the DMNFR region and the rest of the state. Inaction would result in the loss of anticipated program benefits in terms of criteria pollutants and GHG emissions reductions. If a no-action alternative is selected, then an alternative program that achieves similar or greater emission reductions would need to be implemented to assist the state in achieving its air quality and GHG reduction goals.

Section 25-7-110.8, C.R.S.

To the extent that the § 25-7-110.8, C.R.S., requirements apply to this rulemaking, and after considering all the information in the record, the Commission hereby makes the determination that:

(a) These rules are based on reasonably available, validated, reviewed, and sound scientific methodologies and all validated, reviewed, and sound scientific methodologies and information made available by interested parties has been considered.

(b) Evidence in the record supports the finding that the rule shall result in a demonstrable reduction in GHG pollution and/or ozone precursors as transportation co-pollutants and will enable the Commission to satisfy the requirements of §§ 25-7-102, -105(1)(e), -106, and/or -109, C.R.S., as applicable.

(c) Evidence in the record supports the finding that the rule shall bring about reductions in risks to human health and the environment that will justify the costs to government, the regulated community, and to the public to implement and comply with the rule.

(d) The rules are the most cost-effective to achieve the necessary and desired results and reduction in air pollution.

(e) The rule will maximize the air quality benefits of regulation in the most cost-effective manner.

Explanations for suggested language modifying the Proposed Revisions to Regulation No. 22

Edit Number	Section	Reason for Change
1	III.B.1.a.	Remove extraneous sentence on GHG emissions.
2	III.B.3.	Revise the definition for “Employee” to clearly exclude independent contractors to provide regulatory certainty to employers.
3	III.B.4.	Revise the definition for “Employee Traffic Reduction Program Plan or ETRP” Plan to reflect the purpose of the strategies is to reduce emissions from commuting. Not all strategies identified in III.C.1.o. reduce vehicle miles traveled, such as electric vehicle charging infrastructure and flexible scheduling to shift commute trips outside of the period between 6 a.m. and 12 p.m. However, all listed strategies reduce emissions from commuting.
4	III.B.5.	Revise the term from “Employer Transportation Coordinator” to “Employee Transportation Coordinator” to match the other four instances of “Employee Transportation Coordinator” in the regulation.
5	III.B.10.	Revise the definition for “Single Occupancy Vehicle (SOV)” to clarify how taxis and TNC-procured rides are treated in the regulation.
6	III.B.11.	Revise the definition for “SOV Drive Rate” to clarify three items: 1) vehicle trips arriving at the worksite from non-employees (e.g. customers, contractors, etc.) are not included in the numerator 2) trips made by carpool/vanpool are not included in the numerator 3) trips made by ZEVs are not include in the numerator
7	III.B.12.	Revise the definition for “Vehicle” to remove reference to internal combustion engines, because defining the term so narrowly renders the definition of “Zero Emission Vehicle or ZEV” in III.B.14 meaningless.
8	III.B. (second instance)	Revise the numbering for “Program Requirements” from III.B. to III.C.
9	III.C.1.b.	Revise to include a reference to the timing requirements for employers who choose to comply with an alternative compliance approach.
10	III.C.1.d.	Revise to clarify the deadline for submitting Division-approved data in lieu of survey data for employers who become subject to the rule after January 1, 2022.
11	III.C.1.f.	Revise to specify a minimum time for the calculation period, a term which is used in III.B.11 but is not defined elsewhere in the regulation. Recommend seven days based on the draft survey developed by the Division, and recommend setting a minimum in case some employers want to survey additional days (e.g. for employers offering 5-4/9 flex work schedules).
12	III.C.1.i.	Remove requirement for all employees selected for a random sample survey to respond to the survey, because that requirement is difficult to meet. Instead, recommend using the same approach as for III.C.1.h, where non-responses count as 100 percent SOV.
13	III.C.1.j.(ii)	Add an additional requirement to specify the dates included in the survey when reporting on survey results to the Division. knowing the time period the survey reflects may help with understanding results,

		such as amount of ozone precursor reductions during the ozone season, and may inform any potential future improvements to the regulation.
14	III.C.1.o.	To conform with the “Statement of Basis, Specific Statutory Authority, and Purpose,” clarify in the regulation that large employers with more than one ETRP-affected worksite can develop one plan or multiple plans.
15	III.C.1.j.(i) (second instance)	Correct the numbering of the first requirement under III.C.1.o. from III.C.1.j.(i). to III.C.1.o.(i).
16	III.C.1.o.(iii)(C)	Revise the time period to reflect the AM peak travel time instead of the hours originally specified for employer applicability in the RAQC’s ETRP framework (i.e. the RAQC rule proposed the ETRP would apply to employers with 250 or more employees arriving between 6 am and 12pm at a single work site).
17	III.C.1.o.(xiv), III.C.1.o.(xv), and III.C.1.o.(xvi)	Correct the numbering of the last three strategies under III.C.1.o. to III.C.1.o.(xiii), III.C.1.o.(xiv), and III.C.1.o.(xv).
18	III.E.2.a.(v), III.F.1., III.F.3, and III.F.4	In four instances, remove “annual” in front of “SOV Drive Rate” because the previous references in the regulation to the SOV Drive Rate as determined by “other Division-approved data” do not include the term “annual” as a qualifier.
19	Statement of Purpose	Replace “biennial” with “annual” because surveys are required each year.

NFRMPO 2021 Legislative Update

July 2021

Updated June 30, 2021

UPDATES SINCE JUNE COUNCIL:

SB21-260	Sustainability Of The Transportation System
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Last Action:	06/17/2021: Governor Signed
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Web link:	https://leg.colorado.gov/bills/sb21-260
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SB21-238	Create Front Range Passenger Rail District
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Last Action:	6/30/2021 (anticipated): Governor Signed
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Web Link:	https://leg.colorado.gov/bills/sb21-238
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SB21-076	Fund Electronic Third-party Vehicle Transactions
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Last Action:	06/16/2021: Sent to the Governor
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Web Link:	https://leg.colorado.gov/bills/sb21-076
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HB21-1196	Update Senate Bill 19-263 Effective Date Clause
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Last Action:	06/21/2021: Sent to the Governor
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Web Link:	https://leg.colorado.gov/bills/hb21-1196
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HB21-1206	Medicaid Transportation Services
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Last Action:	06/17/2021: Sent to the Governor
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Web Link:	https://leg.colorado.gov/bills/hb21-1206
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SB21-265	Transfer From General Fund To State Highway Fund
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Last Action:	06/18/2021: Governor Signed
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Web Link:	https://leg.colorado.gov/bills/hb21-1206
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Other Bills To Watch (Air Quality or Mobility-related)

SB21-072

Public Utilities
Commission
Modernize Electric
Transmission
Infrastructure

Governor Signed

The bill directs the PUC to approve utilities' applications to build new transmission facilities if the PUC, in its discretion, finds that the new facilities would assist the utilities in meeting the state's clean energy goals established in 2019. Section 1 also requires the PUC to consider the ability of the proposed facilities to support future expansion as needed to enable the utility to participate in a regional transmission organization (RTO). The bill also would create the Colorado Electric Transmission Authority (CETA) as an independent special purpose authority. CETA is authorized to select a qualified transmission operator to finance, plan, acquire, maintain, and operate eligible electric transmission and interconnected storage facilities (eligible facilities).

CETA is granted various powers necessary to accomplish its purposes, including the power to issue revenue bonds; identify and establish intrastate electric transmission corridors; coordinate with other entities to establish interstate electric transmission corridors; exercise the power of eminent domain to acquire eligible facilities; and collect payments of reasonable rates, fees, interest, or other charges from persons using eligible facilities.

SB21-230

Transfer to Colorado
Energy Office Energy
Fund

Governor Signed

The bill provides a one-time transfer of \$40M from the General Fund to the Colorado Energy Office (CEO) for grants to the Colorado Clean Energy Fund and the Colorado new energy improvement district totaling up to \$30 million and \$3 million, respectively; residential energy upgrade loans up to \$2 million; and up to \$5 million in additional funding to the Charge Ahead Colorado program administered by the CEO.

HB21-1266

Environmental
Justice
Disproportionate
Impacted
Community

Sent to Governor

This bill defines "disproportionately impacted community" and requires AQCC to promote outreach to and engage with disproportionately impacted communities by creating new ways to gather input from communities across the state, using multiple languages and multiple formats, and transparently sharing information about adverse effects resulting from its proposed actions. The bill also creates the Environmental Justice Action Task Force in CDPHE, the goal of which is to propose recommendations to the general assembly regarding practical means of addressing environmental justice inequities.

Weld County Mobility Committee (WCMC)—MINUTES
June 22, 2021
1:35 p.m. – 2:48 p.m.

1. Call Meeting to Order, Welcome and Introductions

- Lisa Bitzer, Via Mobility Services
- Steve Teets, WAND
- Celeste Ewert, Envision
- Julie Glover, Adeo
- Moira Moon, CDOT
- Margie Martinez, United Way 211
- Janet Bedingfield, 60+ Ride
- Dan Betts, Congressman Buck's Office
- Will Jones, GET
- Jeffrey Prillwitz, CDOT
- Chris Baker, Via Mobility Services
- Robyn Upton, Greeley Citizens Bus Improvement Committee

NFRMPO staff: Alex Gordon, Cory Schmitt, Hanna Johnson

2. Review of Agenda

3. Public Comment (2 minutes each)

4. Approval of April 27, 2021 Meeting Minutes

Teets motioned to approve the April 27, 2021 minutes. Ewert seconded the motion, and it was approved unanimously.

ANNOUNCEMENTS

Ewert asked the group if there were any local or regional transportation surveys. One survey she was aware of is the Greeley on the Go Master Plan transportation survey. Teets mentioned that NFRMPO has an open [survey regarding the Coordinated Plan](#). Teets requested that the survey from the NFRMPO last longer. Jones mentioned that the Greeley on the Go plan survey just closed, and they received more responses than anticipated. Teets requested that Jones provide the results of the Greeley survey and that Gordon provide survey results for the NFRMPO Coordinated Plan survey.

Gordon announced that the Environmental Justice Plan was adopted by NFRMPO. Teets requested a copy of the final EJ Plan.

PRESENTATIONS

Bustang Outrider– Prillwitz presented about the new Sterling-Greeley-Denver Route. Teets suggested that the service go into Loveland to connect the region better. Prillwitz noted that the funding is for rural communities, so it is difficult to run the service between two urbanized areas. Prillwitz noted that phase 4 of Outrider will be examined in Fall 2021, so CDOT will be examining how to improve Outrider routes. The route will be stopping at both UC Health and Northern Colorado Medical Center in Greeley. Prillwitz noted that there will be a follow up meeting in all the communities; these meetings are not yet scheduled. The full presentation will be attached to these minutes.

DISCUSSION ITEMS

Coordinated Plan/LinkNoCo – Gordon shared that the Coordinated Plan update is still in progress. There is a survey for the Coordinated Plan update that is live, and a video that details more about the



Coordinated Plan update on the NFRMPO's YouTube channel. LinkNoCo is the new name for the North Front Range Premium Transit Analysis. This analysis examines transit "above" a local bus (BRT, Express Bus, Rail, etc.). This analysis sought to answer how to better connect the region and make a transit network between communities. The analysis will evaluate different governance and funding models. Premium transit aims to be fast, multimodal, and reliable. There will be a policy advisory group composed of Planning Council members that will advise LinkNoCo. There will also be a Guidance Committee composed of staff; Schmitt will likely sit on that Guidance Committee to represent the Mobility Committees. The full presentation can be found in the meeting packet

NFRMPO & RideNoco Update – Schmitt introduced the new Mobility Coordinator, Hanna Johnson. Schmitt announced that RideNoCo is seeking beta testers for the website. The Rider's Guide has been updated, and Schmitt shared the updated Rider's Guide with the group for feedback. If WCMC members have feedback on the Rider's Guide, please email mobility@nfrmpo.org. Teets requested a few copies and suggested that the Rider's Guide be shared with the Weld County AAA and Larimer County Office on Aging. Martinez request that this information be updated for 211. More formal feedback and updates about RideNoCo will occur at the regional mobility meeting in August.

Expansion of Via Mobility Services –Schmitt announced that the Via Pilot to service rural southwestern Weld County and southeastern Larimer County will start on August 2, 2021. Bitzer stated that there is an open survey to give the pilot a better idea of what destinations the pilot will service. The service is free and open to the general public within the service area. The pilot will operate from August 2, 2021 through December 31, 2021. Schmitt noted that the resident must live in the blue area defined by the service area map. The survey can be accessed [here](#), and the press release can be accessed [here](#).

Post-Pandemic Ridership Outlook– Ewert received feedback from Colorado Health Care Policy & Financing (HCPF) that full capacity on vehicles is allowed with vaccinated individuals and unvaccinated individuals with masks. Bedingfield shared that 60+ Ride has also relaxed mask requirements for both riders and drivers, but drivers and riders are instructed to wear masks if requested by the other for comfort. Glover noted Adeo has increased capacity in their vehicles too. Greeley Evans Transit (GET) continues to require masks, but buses can run at full capacity; GET ridership is half of what was pre-pandemic, but ridership is steadily increasing. Via does not have any capacity restraints, but masks are still required; their ridership is about half of what it was pre-pandemic, and they are having issues hiring drivers.

GREELEY EVANS TRANSIT NEWS AND UPDATES

Jones announced that GET has a new Transit Manager Melvin Barkley. He will begin in July.

WCMC MEMBER REPORTS

- There were no other updates from WCMC members.

Final Public Comment (2 minutes each)

5. Next Month's Agenda Topic Suggestions

- a) Topics for next WCMC meeting in October include ridership updates on the Via Mobility pilot, results from NFRMPO surveys and 2021 Planning Council updates.

6. Adjourn



- a)** Ewert motioned to adjourn the meeting at 2:48 pm. Teets seconded. The Joint Mobility Committee will be August 24, 2021 and the WCMC meeting will be October 26, 2021.



Connecting You & Northern Colorado: Mobility Newsletter

[Visit our Website](#)

The Mobility Newsletter is now Connecting You & Northern Colorado!

In this Issue:

- Welcome Hanna Johnson, Mobility Coordinator
- RideNoCo: One Call/One Click Center Updates
- DriveNoCo: Paid & Volunteer Driving Opportunities
- Bustang Adding New Service
- Cycling Without Age
- COVID Vaccination Transportation
- Coordinated Plan Update - Video and Poll
- Via Mobility Services Southwestern Weld & Southeastern Larimer County Pilot
- Get Involved: Calendar, Meeting Details

Read on for the latest mobility updates in Northern Colorado.

Welcome Hanna Johnson!

Welcome Hanna Johnson, the NFRMPO's new Mobility Coordinator! Hanna joins the NFRMPO after serving as a Planner with Jefferson County Planning and Zoning. Hanna brings experience both with multimodal transportation and land-use planning. She is fascinated by the interconnected relationship between mobility, the built environment, health, community services, and public policy.

Growing up in Greeley and then attending Colorado State University, Hanna is passionate about the mobility outcomes within the MPO's region. While at CSU, she served as the chairperson for the student government's Alternative Transportation Fee Advisory Board (ATFAB). In this role, she facilitated partnerships across the region to improve mobility outcomes for the CSU student body, ensuring students were at the table for projects like the Poudre Express regional bus route.



Hanna's main task will be assisting with the development of NFRMPO's One Call/One Click Center based on the [Larimer County Senior Transportation Implementation Plan](#) to empower residents of Northern Colorado with a centralized hub to find and access the best transportation options to meet their needs. The One Call/One Click Center is funded through the Multimodal Options Funds (MMOF) program and was approved by the NFRMPO Planning Council in January 2020.

Hanna can be reached at hjohnson@nfrmpo.org or (970) 672-0677.

RideNoCo: One Call/One Click Center Updates

The *RideNoCo* website is currently under development with an anticipated completion date of early August 2021. To ensure functionality, accessibility and inclusivity, the NFRMPO is looking for beta testers across different communities, abilities, and identities.

Interested in providing feedback? Please reach out via:

- Email: mobility@nfrmpo.org
- Phone: (970) 514-3636

In the News: [**The NoCo Optimist: "New One Click/One Call Center and RideNoCo to help Weld County seniors get rides simply"**](#)

DriveNoCo

Are you a driver looking for a new employment opportunity? Or maybe a community member eager to help a neighbor in need? DriveNoCo is your resource to find paid and volunteer driving opportunities in Northern Colorado. Serve your community by helping people get where they want and need to go!



Volunteer Driving Opportunities:

[60+Ride](#)

[RAFT](#)

[SAINT](#)

Paid Driving Opportunities:

GET: [Part Time](#) & [3/4 Time](#)

[Heart&Soul](#)

[Transfort](#)

[zTrip](#)

[Via Mobility Services](#)

Bustang Adding New Service

Bustang will be adding service along the following routes:

- [Sterling to Greeley/Denver - Summer 2021](#)
 - [New Service](#)
- [Fort Collins/Loveland to Denver](#)
 - [Additional Service](#)
- [Estes Park to Denver - Summer 2021](#)
 - [New Service](#)



Additionally, full capacity seating - 51 passengers - has returned to all Bustang coaches. The following public safety measures are continuing

at this time:

- Face masks are required for drivers and passengers.
- Additional personal protective equipment issued for drivers.
- Hand sanitizer wipes are offered to passengers upon entry.
- Coaches are cleaned and disinfected upon completion of each route.



Cycling Without Age

[Cycling Without Age](#) has started a Northern Colorado chapter, with rides provided in Weld County along the Poudre Trail. This program offers free trishaw bike rides to seniors that would like to visit regional trails and feel the "wind in their hair." Rides are offered on weekdays during the summer season.

[Learn More](#)
[Schedule Your Ride Today](#)
[Become A Pilot](#)
[In the News](#)

COVID Vaccination Transportation

RideNoCo continues to connect individuals in need of transportation to and from COVID-19 vaccine appointments across Larimer and Weld counties. Through partnerships with the Larimer County Office on Aging and the Weld County Area Agency on Aging, individuals over the age of 60 and/or over the age of 18 with a disability should not have to pay for transportation to their COVID vaccination appointments. In Larimer County, a partnership with the Larimer County Office of Emergency Management and local taxi operator zTrip allows healthy adults between the ages of 18-59 to also receive transportation to and from their vaccinations free of charge.

As of June 18, 2021, *RideNoCo* has received 43 calls, 32 requests for transportation and has fulfilled at least 24 of these requests.

To request a ride to a COVID vaccination appointment, please [fill out the request form here](#) or call *RideNoCo* at (970) 514-3636 between the hours of 8am and 5pm, Monday through Friday. We recommend providing at least 24 hours' notice before the scheduled vaccination appointment time.

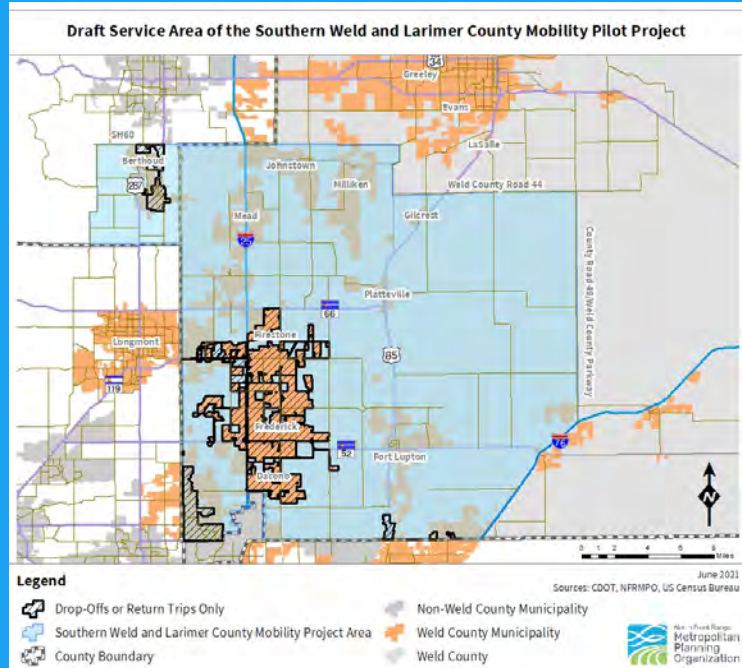
Coordinated Plan Update



The NFRMPO continues to work on the update to the Coordinated Public Transit/Human Services Transportation Plan. To learn more about the Coordinated Plan, watch this [quick video](#) explaining its purpose and process. To provide feedback, please fill out this [quick survey](#). Make sure to check out our [Mobility page](#) for more information.

Via Mobility Piloting New Service in Southwestern Weld and Southeastern Larimer Counties

Beginning August 2nd, 2021, Via Mobility Services, a non-profit transportation provider based in Boulder, will launch a pilot program serving people and communities in rural portions of southwestern Weld County and southeastern Larimer County as defined by the blue service area in the map. The new pilot service will be available to those residing in or near the municipalities of Mead, Johnstown, Milliken, Gilcrest, Platteville, Fort Lupton, Lochbuie, and portions of the Berthoud area. Via will transport individuals to destinations within the defined service area as well as surrounding locations such as Brighton, Boulder County, and potentially Greeley and Loveland.



Residents in the service area can fill out the Via Pilot Survey to give feedback about the upcoming service. Survey results will guide which destinations the pilot will serve.

The pilot service will be free, wheelchair accessible, and open to the general public, regardless of age or ability. Operating hours will be Monday-Friday, 8am to 3:30 pm.

Take the Via Pilot Survey Here

Get Involved with NFRMPO



North Front Range
**Metropolitan
Planning
Organization**

See what's happening at the NFRMPO and join us virtually at one of our upcoming events or meetings. For a comprehensive and up to date calendar of events, visit <https://nfrmpo.org/calendar>, and to download meeting materials, visit <https://nfrmpo.org/meeting-materials>.

Due to the current circumstances regarding COVID-19 many meetings are being conducted virtually or a hybrid of virtual and in person. Please check our **Events Calendar** for the most up to date information.

Upcoming Mobility Meetings

July 2021						
Su	M	T	W	Th	F	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August 2021						
Su	M	T	W	Th	F	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September 2021						
Su	M	T	W	Th	F	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

	LCMC		Joint Meeting
	WCMC		MAPG

Special Meeting:

Joint Regional Mobility Committee Meeting
on August 24th from 1:00 to 4:00pm at the Windsor-Severance Library

The Joint Regional Mobility Committee Meeting will bring together the Weld County Mobility Committee and Larimer County Mobility Committee to provide feedback on the update to the Coordinated Public Transit/Human Services Transportation plan, learn more about the roll out of RideNoCo, and continue enhanced communication and coordination between providers across county and municipal lines. More details to come.

Recurring Meetings:

Mobility and Access Priority Group (MAPG)
(formerly the Senior Transportation Coalition) meets the first Thursday every other month (February) at 1:30 p.m. Meetings are currently being held virtually.

Larimer County Mobility Committee (LCMC)
meets the third Thursday every other month (January & March) at 1:30 p.m. Meetings are currently being held virtually.

Weld County Mobility Committee (WCMC)
meets the fourth Tuesday every other month (February) at 1:30 p.m. Meetings are currently being held virtually.





RIDE
NOCO



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- For Immediate Release -

Press Release

NFRMPO and Via Mobility Services seeking feedback for transportation pilot program that will provide service in southwestern Weld County and southeastern Larimer County.

Larimer County and Weld County, Colorado— Beginning August 2, 2021, [Via Mobility Services](#), a non-profit transportation provider based in Boulder, will launch a pilot program serving people and communities in rural portions of southwestern Weld County and southeastern Larimer County as detailed in the project area [map](#). Partners are currently [seeking feedback](#) to assess the transportation needs of potential riders in the region. The results of [this survey](#) will guide the final decision on the specific service offerings for this pilot. All survey responses should be provided prior to Sunday, August 1, 2021.

This pilot service will be available to those residing in or near the municipalities of Mead, Johnstown, Milliken, Gilcrest, Platteville, Fort Lupton, Lochbuie, and portions of the Berthoud area. Via will transport individuals to destinations within the defined service area as well as surrounding locations such as Brighton, Boulder County, and potentially Greeley and Loveland. The pilot will be free and open to the general public, including individuals utilizing a mobility device, through the end of 2021. Operating hours will be Monday-Friday, 8:00 am to 3:30 pm. Once the pilot period is concluded, Via and partner organizations will assess the level of demand and funding necessary to continue the service. NFRMPO and Via will provide additional information about the service, including how to book a ride, in July with a follow up announcement.

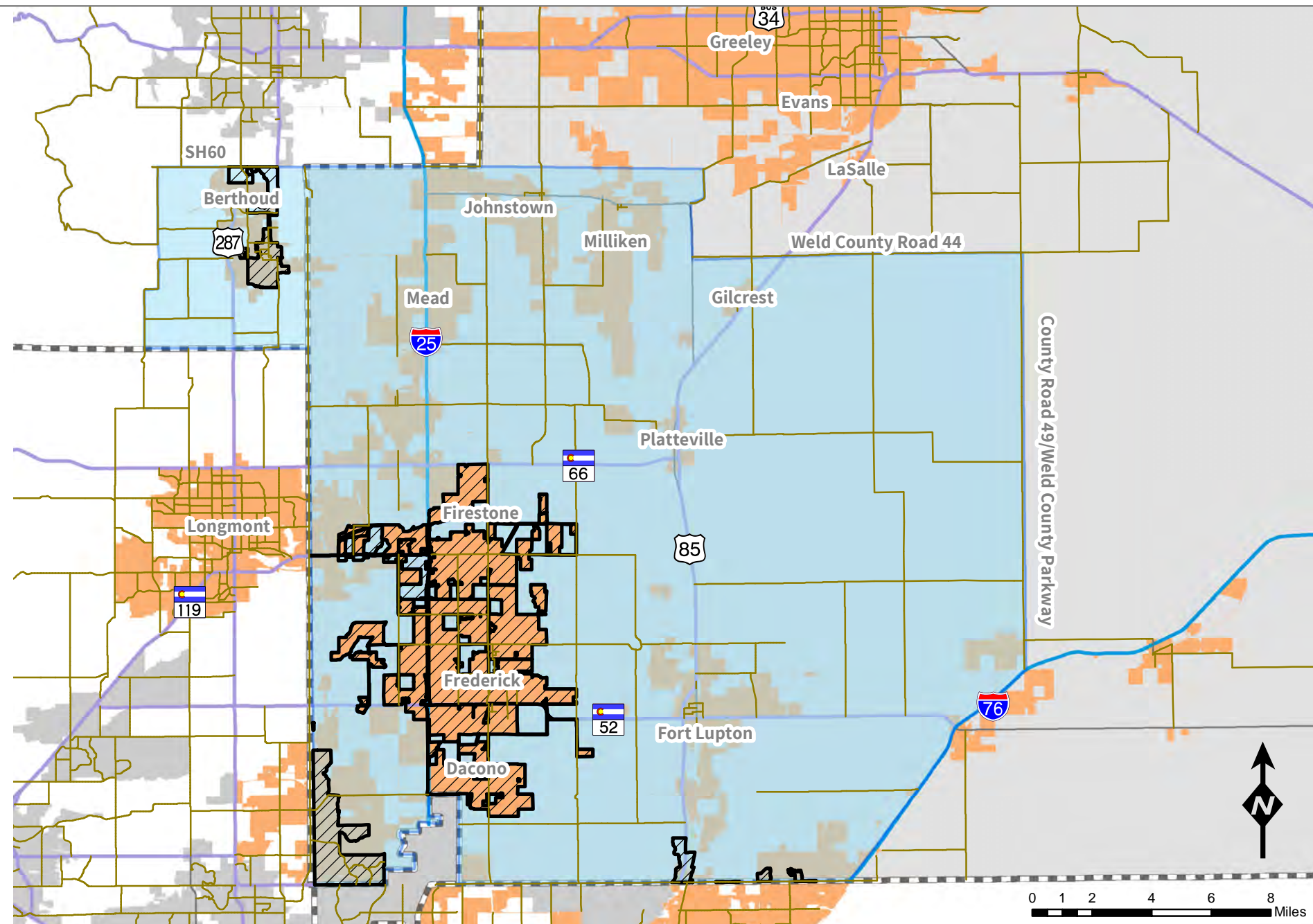
The [North Front Range Metropolitan Planning Organization](#) (NFRMPO)'s One Call/One Click Center and expanded mobility program, *RideNoCo*, was developed to enhance coordination among transportation providers and address gaps in service across the Northern Colorado region, especially in underserved rural portions of Larimer and Weld counties. The NFRMPO's Weld County and Larimer County Mobility Committees provided a forum for Via to present its vision for expanded service in rural southwestern Weld and southeastern Larimer County and receive the support of existing transportation providers and stakeholders, including the two non-profit transportation providers that provide service to individuals within the pilot project area:

- 60+ Ride provides transportation to adults aged 60 and older in Weld County. Learn more at (970) 352-9348 or www.60plusride.org
- Rural Alternative for Transportation (RAFT) provides transportation to adults over the age of 60 and adults over the age of 18 with a disability within the Berthoud Fire Protection District surrounding the Berthoud town limits. Learn more at (970) 532-0808 or www.berthoudraft.org.

--more--

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Draft Service Area of the Southern Weld and Larimer County Mobility Pilot Project



June 2021

Sources: CDOT, NFRMPO, US Census Bureau

Legend

-  Drop-Offs or Return Trips Only
-  Southern Weld and Larimer County Mobility Project Area
-  County Boundary

-  Non-Weld County Municipality
-  Weld County Municipality
-  Weld County