

DRAFT – For Discussion Purposes Only

Date: October XX, 2021

To: Director Shoshana Lew, Hearing Officers Andrew Hogle and Christine Reece, and Transportation Commissioners

From: North Front Range Metropolitan Planning Organization (NFRMPO)

Re: NFRMPO Comments on the Proposed GHG Rule

Introduction

Thank you for the opportunity to submit comments on the Transportation Commission's (TC's) proposed revision to the Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions which identifies a process for addressing greenhouse gas (GHG) emissions and sets GHG standards for transportation plans. The North Front Range Transportation & Air Quality Planning Council, also known as the NFRMPO, is comprised of 15 elected officials representing portions of Larimer and Weld counties. As a Metropolitan Planning Organization (MPO), the NFRMPO will be responsible for demonstrating compliance with the proposed rule and NFRMPO staff have engaged extensively in the stakeholder process conducted by the Colorado Department of Transportation (CDOT) that began in January 2021. This comment letter presents the substantive comments of the NFRMPO on the GHG rule, which supplements comments submitted previously by the NFRMPO on September 8, 2021, and September 13, 2021.

The substantive comments presented below are not as comprehensive as they could be due to the inability to review two requested datasets. As explained in the comment letter submitted by the NFRMPO on September 13, 2021, there are four datasets that should be released during the public comment period to allow fully informed decision making and meaningful stakeholder involvement, all of which had been requested by the NFRMPO in July and/or August, prior to sending the letter. Several of the requested datasets have subsequently been provided to the NFRMPO; however, corrections to the GHG Reduction Levels and the technical report describing the modeling process have still not been provided.¹ As such, **the NFRMPO continues to recommend an extension of the public comment period** to provide at least 30 days of public comment past the delivery of requested datasets to allow for the submission of data-driven comments and development of a data-driven rule.

The NFRMPO strongly supports development of a data-driven, feasible, and effective rule to reduce GHG emissions resulting from implementation of transportation plans. The remainder of this comment letter is organized into two sections: Rule Context, which provides background on understanding the rule and the NFRMPO's recommendations, and Recommended Improvements, which identifies 13

¹ The reasons both datasets are important for developing data-driven comments are described in the NFRMPO's comment letter dated September 13, 2021, which is available on pages 61-63 at https://www.codot.gov/business/rules/documents/redacted-written-comment_ghg-pollution-standard.pdf.



recommendations for improving the rule. Please see the attached redline for the NFRMPO's specific wording suggestions for the GHG rule.

Rule Context

To develop a data-driven, feasible, and effective rule, it is important to understand the context of the rule. The following three fundamental concepts should inform the GHG rulemaking process and are explained further below:

1. Importance of developing a clearly written, procedurally sound GHG rule
2. Amount of emission reductions from the GHG Rule needed to achieve State GHG goals
3. The role of vehicle miles traveled (VMT)

For additional information on the provisions of the proposed rule and analysis of relevant datasets informing the NFRMPO's recommendations, recordings of two presentations by NFRMPO staff are available at <https://nfrmpo.org/air-quality/ghg-rulemaking/>. These recordings are available as a resource for decision makers and stakeholders who wish to develop a greater understanding of the proposed rule and its implications.

1. Importance of developing a clearly written, procedurally sound GHG rule

Rulemakings are significant undertakings that set regulations permanently unless a sunset provision is included. Once a regulation is in place, modification requires initiating a new rulemaking process, which takes substantial time and effort. Regulations may have associated policy documents, such as procedural directives and/or policy directives, to guide implementation and clarify processes, but it is important for rules to provide a clear framework that can stand the test of time. Rulemakings receive higher public scrutiny than associated policy documents and should address any contentious issues through the public rulemaking process rather than delegating those issues to supporting documents. Due to the permanence of regulations, many different staff members and Transportation Commissioners will be involved in implementing the proposed rule. By ensuring the rule is clear and procedurally sound, there is a greater likelihood of implementing the rule as envisioned by the TC.

2. Amount of emission reductions from the GHG Rule needed to achieve State GHG goals

The proposed rule under consideration by the TC is identified in the State's GHG Pollution Reduction Roadmap ("GHG Roadmap")² as one of seven near term strategies to reduce GHG emissions from the transportation sector. To achieve the State's statutory goal of cutting GHG emissions 50 percent by 2030, the GHG Roadmap proposed the transportation sector reduce GHG emissions by 12.7 million metric tons (MMT) in 2030. Fleet turnover and transportation electrification is expected to reduce GHG emissions by 8 MMT in 2030, leaving a GHG reductions gap of 4.7 MMT.

² Colorado Greenhouse Gas Pollution Reduction Roadmap, 1/14/2021, accessed on 10/4/2021 at https://drive.google.com/file/d/1jzLvFcrDryhhs9ZkT_UXkQM_0LiYZfq/view.



The status of six of the seven near-term transportation strategies is identified in **Table 1**, as presented by the Colorado Energy Office (CEO) and Air Pollution Control Division (APCD).³ Collectively, the strategies are intended to reduce GHG emissions by 4.7 MMT in 2030; there is no single strategy that is intended to close the gap on its own. Because the strategies are being developed through independent processes with varying timelines, it can be challenging to determine how much GHG emissions each strategy should be designed to reduce. It is vitally important that each strategy be designed to be feasible and cost effective so that it can successfully produce reductions in GHG emissions. If, however, a strategy is designed to reduce GHG emissions by an unachievably high amount, the likelihood of failing to meet the State's statutory GHG reduction goal could increase.

Based on Colorado's GHG Roadmap, there is no specific amount of GHG reductions that need to be achieved by this proposed rule to meet the State's GHG reduction goals. Designing the rule to be feasible and cost effective is the best way to support the State's GHG reduction goals.

**Table 1: Status of GHG Roadmap's Transportation Sector Near Term Actions
Intended to Reduce GHG Emissions by 4.7 MMT in 2030**

Near Term Actions	Status
GHG Pollution Standards for transportation plans	In progress - CDOT TC Rulemaking – hearing 11/2021
Incentivize land use to increase housing near jobs and reduce VMT and pollution	HB 21-1271, HB 21-1117; CDOT stakeholder process; interim affordable housing committee
Clean trucking strategy - infrastructure, fleet incentives, consider regulatory tools such as advanced clean trucks and fleet rules	In progress - Study to be released October 2021 Stakeholder Engagement – Summer/Fall 2021; fleet investments from SB21-260
Participate in developing post 2025 vehicle standards (state and federal)	Federal and CARB processes
AQCC evaluation of indirect source rules	RAQC has convened committee to start developing proposals
Expansion of public transit, including setting the stage for Front Range Rail	In progress - SB21-238, SB 21-260, Main Streets investments, on-going multimodal emphasis

Source: Adapted from CEO and APCD presentation to the Air Quality Control Commission (AQCC) on 9/17/2021, accessed on 9/23/2021 from https://drive.google.com/drive/folders/1q91ZW5WD8KHvODzflOoSq5gKTOW_02MJ. (See Slide 21)

3. The role of vehicle miles traveled (VMT)

As explained in the Preamble for the 2021 Rulemaking, SB21-260 requires CDOT and the TC to establish procedures and guidelines “to account for the impacts of transportation capacity projects on GHG pollution and Vehicle Miles Traveled and to help achieve statewide GHG pollution targets established in § 25-7-102(2)(g), C.R.S.”⁴ It is important to note SB21-260 has distinct requirements regarding GHG

³ The seventh strategy, omitted from the table, is the Commute Trip Reduction Program, which was dismissed from an AQCC rulemaking in August 2021 but is currently being explored as a voluntary program.

⁴ Preamble for 2021 Rulemaking, Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions, https://www.codot.gov/business/rules/documents/2-ccr-601-22_redline_8-13-21.pdf.



emissions and vehicle miles traveled (VMT) for the TC's procedures and guidelines. For GHG emissions, SB21-260 requires a *reduction* in GHG emissions to help achieve the statewide pollution targets. For VMT, SB21-260 requires an *accounting* of the impact of capacity projects on VMT; it does not require reductions in VMT.

Vehicle Miles Traveled (VMT) plays an important role in determining the amount of greenhouse gas emissions from transportation, but it is not the only factor. As explained in FHWA's "Handbook for Estimating Transportation Greenhouse Gases for Integration into the Planning Process" ("FHWA Handbook"), GHG emissions from each mile of travel vary based on vehicle type, classes within vehicle types, technology/fuel type, speeds, and operating conditions.⁵ On a mile for mile basis, a transportation system with more congestion, starts and stops, and vehicle idling will have higher GHG emissions than a system with less congestion, starts and stops, and vehicle idling. Improving system operations, such as through Intelligent Transportation Systems (ITS), can provide net reductions in GHG emissions without reducing VMT.

As required by SB21-260, the proposed rule establishes targets for GHG emissions reductions. The proposed rule does not establish targets for VMT reductions, nor should it. However, the Cost-Benefit Analysis (CBA) inaccurately portrays the proposed rule as a VMT-reduction rule instead of as a GHG-reduction rule. The CBA states "CDOT developed illustrative policy choice packages that assume implementation of three broad categories of VMT reduction measures."⁶ However, included in those measures is the electrification of buses, which is not a VMT-reduction measure. The CBA states the "costs and benefits of bus electrification are not considered here, since bus electrification is not a VMT reduction measure." In fact, the benefits of bus electrification are incorporated into the scenario used to set the GHG Reduction Levels, as evidenced by the GHG emissions reductions reported in Table A.15 of the CBA which match the emissions reductions reported in the CDOT presentation dated July 13, 2021.⁷ Even though the benefits of bus electrification are included, the additional cost of purchasing electric buses are not considered, resulting in an incomplete assessment of the costs of the proposed rule.

Currently, the proposed rule includes two illustrative examples of GHG Mitigation Measures which reduce GHG through non-VMT strategies, including efforts to accelerate truck electrification in §8.03.7 and clean construction policies in §8.03.8. The rule would be strengthened by considering the full range of strategies available to CDOT and MPOs to reduce GHG emissions from transportation, including other types of fleet improvements such as alternative fuel transit buses, improving system operations through ITS, and any other type of operations improvement that results in reduced greenhouse gas emissions.

⁵ FHWA, "Handbook for Estimating Transportation Greenhouse Gases for Integration into the Planning Process," 2013, accessed on 10/4/2021 at

https://www.fhwa.dot.gov/environment/sustainability/energy/publications/ghg_handbook/ghghandbook.pdf.

⁶ CDOT, Cost-Benefit Analysis For Rules Governing Statewide Planning, 8/31/2021, accessed on 10/4/2021 at

<https://www.codot.gov/business/rules/documents/cdot-cost-benefit-analysis-for-ghg-rule-sept-2021.pdf>.

⁷ Permanent Rulemaking Exhibits, "Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions," GHG Pollution Standard GHG Reduction Targets & GHG Policy Paper, 7/13/2021, Exhibit 8, accessed on 10/4/2021 at

https://www.codot.gov/business/rules/documents/00_2ccr60122_exhibits_redacted.pdf, See pages 270-278.



The Clean Air Act (CAA) identifies a wide range of transportation strategies that reduce emissions. The CAA includes 16 strategies, called Transportation Control Measures (TCMs), which reduce emissions by one of three mechanisms:

- reducing VMT (e.g. trip-reduction ordinances, improved public transit),
- improving operations (e.g. programs to control extended idling in vehicles, traffic flow improvement programs that achieve emission reductions), or
- fleet improvements (e.g. programs to voluntarily remove pre-1980 vehicles from use).⁸

As with the CAA, the GHG rule should allow for a wide range of effective strategies and not restrict the GHG Mitigation Measures or the strategies informing the GHG Reduction Levels to only those that reduce GHG through VMT reductions. As explained above, the rule already incorporates non-VMT reducing strategies into both the GHG Mitigation Measures and GHG Reduction Levels; however, there are additional non-VMT strategies such as operations improvements that should also be included. For more information on this topic, please see Recommendation #7 on page 10 of this comment letter.

Recommended Improvements

The NFRMPO offers the following recommendations for improving the clarity, effectiveness, and feasibility of the proposed rule, each of which are explained further below:

1. Remove or Update GHG Baselines
2. Set Per Capita GHG Reduction Levels
3. Develop Practicable GHG Reduction Levels
4. Correct Errors in GHG Reduction Levels
5. Require Reassessment of GHG Reduction Levels
6. Expand Implementers of GHG Mitigation Measures
7. Include Operations Strategies in the GHG Mitigation Measures
8. Require a Vote of the TC to Deny Waiver and Reconsideration Requests
9. Remove or Modify Requirement for TIPs
10. Remove Restrictions on CMAQ-Funded Projects
11. Allow Non-Regionally Significant Projects Funded with STBG to Proceed
12. Additional Clarifications to Processes
13. Clarify and Update Assumptions in the Cost-Benefit Analysis

The attached redline provides the specific wording suggestions for many of the recommended improvements, including Recommendations #5-#8 and #10-#12. The remaining recommendations are not included in the attached redline because they either require additional analysis to update the GHG

⁸ Clean Air Act, 42 U.S.C. §7408(f) (1990).



emissions values in the rule, have multiple ways of being addressed, or are focused on the CBA. The NFRMPO will work cooperatively with CDOT to clarify and identify solutions for all recommended improvements.

1. Remove or Update GHG Baselines

There are three issues with the GHG Baseline Projections (“baselines”) in Table 1 of the proposed rule:

- The baselines are estimated from the statewide travel model for each regional area,
- The baselines do not account for projected electric vehicle (EV) shares, and
- The baselines for each regional area were assigned by their share of statewide vehicle miles traveled (VMT) instead of their share of GHG emissions.

The proposed rule provides valuable flexibility by allowing MPOs to assess compliance with the rule using their own travel model or the statewide travel model. Because different models have different sensitivities, the GHG Baseline Projections should be based on MPO travel models for any MPO that will use its own model to assess compliance, thus allowing for an apples-to-apples comparison. The NFRMPO will be assessing compliance using its in-house travel model for several reasons, including the ability to quickly test different sets of strategies and to ensure the model reflects the latest planning assumptions for the region.

The GHG Baseline Projections do not account for projected EV shares; however, the scenarios used to develop the GHG Reduction Levels do account for projected EV shares⁹. Because of the difference in methodology, it is not possible to subtract the GHG Reduction Level from the GHG Baseline Projection to identify the amount of GHG emissions allowed for each regional area. Incorporation of projected EV shares is fundamental to understanding the amount of GHG emissions that can feasibly be reduced due to changes to transportation plans because transportation systems with higher shares of EVs have lower potential to reduce GHG emissions through project mix revisions. The baselines should account for the projected EV shares that are expected to result from current state requirements for vehicle electrification.

Lastly, the baselines for each regional area should be based on the GHG emissions resulting from each individual area and not based on an approximation assigned based on their share of VMT. Currently, the baselines in Table 1 are based on assigning the statewide GHG emissions estimate to each regional area according to their statewide share of Vehicle Miles Traveled (VMT), which fails to account for the GHG impacts of different operating conditions and fleet mix in each regional area.

Due to the issues listed above, the NFRMPO recommends removing the GHG Baseline Projections from the rule and placing them in a supporting policy document. Alternatively, if the GHG Baseline Projections are retained in the rule, they should be updated to values based on MPO travel models for any MPO that will use its own model to assess compliance, to account for projected EV shares, and to reflect GHG emissions in each regional area. For the NFRMPO, the updated baseline values are 2.35 MMT in 2025, 1.63 MMT in 2030, 1.18 MMT in 2040, and 0.77 MMT in 2050.

⁹ To be clear, the projected EV shares do not increase the amount of GHG emissions in the GHG Reduction Levels; instead, they lower the amount of GHG emissions. Efforts to electrify the light duty fleet are anticipated to occur through other State requirements and do not count toward achievement of the GHG Reduction Levels for this rule.



2. Set Per Capita GHG Reduction Levels

The GHG Reduction Levels in Table 1 of the proposed rule were developed based on current MPO boundaries and current projections for population and employment growth, both of which are subject to change. MPOs may choose to expand their planning area or may be required to expand their planning area due to updates to Urbanized Areas after a Decennial Census. Per federal planning requirements, MPOs obtain the latest population and employment growth forecasts prior to updating the long-range transportation plan. The updated forecasts may be higher or lower than the previous forecast.

The NFRMPO recommends the rule account for these two sources of change by setting GHG Reduction Levels on a per capita basis, thus allowing the GHG Reduction Levels to remain relevant regardless of changes to MPO planning area boundaries and growth forecasts. The per capita approach is used in California, under SB 375, which requires MPOs meet GHG reductions in terms of percentage reductions in per capita emissions compared to 2005 levels.¹⁰

3. Develop Practicable GHG Reduction Levels

The GHG Reduction Levels in the proposed rule were developed from “illustrative policy choice packages”¹¹ intended to represent feasible reductions related to transportation policy/investment choices available to MPOs and CDOT. Some of the policy choices informing the GHG Reduction Levels include measures that are not within the control of MPOs or CDOT and/or reflect market forces instead of policy choices, such as:

- Changing land use to be more transportation-efficient. According to the CBA, this strategy is “assumed to be achieved mainly through the operation of market forces.”¹² In addition to assuming the strategy will be implemented without any substantive policy changes, authority over land use decisions in the State of Colorado belongs to counties and municipalities, not to MPOs or CDOT. While there are some limited opportunities for MPOs and CDOT to encourage adoption of land use and zoning codes to reduce reliance on driving, such as through revised requirements or scoring criteria in Calls for Projects, these efforts should count in the GHG Mitigation Measure process instead of being factored into the GHG Reduction Levels. An additional benefit of removing the land use assumptions from the GHG Reduction Levels is it ensures the benefits from the two land use-related transportation strategies in the GHG Roadmap are not double counted (i.e. Indirect Source Rule and land use incentives).
- Increasing the share of workers teleworking by a factor of 3, from 6.3% to 18.9%. According to the CBA, this strategy “reflect[s] a continuation of trends observed during the COVID pandemic.”¹³ In addition to assuming the strategy will be implemented without any substantive policy changes, MPOs and CDOT do not have the authority to require employers to offer telework. Instead, the role of MPOs and CDOT is limited to providing information and grants to

¹⁰ California Air Resources Board, “SB 375 Regional Plan Climate Targets”, accessed on 10/4/2021 at <https://ww2.arb.ca.gov/our-work/programs/sustainable-communities-program/regional-plan-targets>.

¹¹ CDOT, Cost-Benefit Analysis For Rules Governing Statewide Transportation Planning, 8/31/2021, accessed from <https://www.codot.gov/business/rules/documents/cdot-cost-benefit-analysis-for-ghg-rule-sept-2021.pdf>, page 2.

¹² IBID, page 15.

¹³ IBID, page 18.



support telework efforts, the potential impact of which would be much less than tripling telework rates statewide.

- Expanding broadband access from 82.6 percent of households (as of 2019) to 97 percent of households by 2030, thus allowing households with new access to broadband to replace 10 percent of personal business trips such as banking or medical appointments with teletravel. The CBA states this strategy is anticipated to be implemented with federal and State funds and through the efforts of the Colorado Broadband Office.¹⁴
- Revising State health care regulations to permit or encourage more telehealth visits to the degree feasible and appropriate.¹⁵
- Expanding transit service by 151 percent between 2019 and 2050¹⁶ (as compared with a population growth forecast of around 50 percent) and reducing transit fares by 50 percent.¹⁷ Strategies to expand transit service and reduce transit fares are more closely related to the strategies available to MPOs and CDOT than the strategies listed above, but there are important caveats. MPOs and CDOT work cooperatively with transit agencies in the metropolitan and statewide planning process, respectively; however, service expansion and transit fare decisions are ultimately determined by each independent transit agency. Providing funding to transit agencies to expand transit service and reduce transit fares is a possibility through CDOT. In contrast, MPOs are severely restricted in the funding they can provide to transit agencies for those two strategies. None of the federal funding programs available through MPOs can provide ongoing transit fare subsidies and none can provide ongoing funding for transit operations.¹⁸

CDOT developed three scenarios to assess feasible ranges of GHG Reductions. The proposed rule uses the “Travel Choices + Transit + Land Use” scenario to set the GHG Reduction Levels, which is a collectively exhaustive list of all tested strategies, including the strategies listed previously that are assumed to occur through market forces and/or are not within the control of MPOs or CDOT. Instead of using the “Travel Choices + Transit + Land Use” scenario to set the GHG Reduction levels, the NFRMPO recommends setting the GHG Reduction Levels using policies and investment choices available to MPOs and CDOT, not on strategies outside their control or changes anticipated to occur through market forces.

¹⁴ IBID, page 12.

¹⁵ IBID.

¹⁶ IBID, page 20.

¹⁷ Permanent Rulemaking Exhibits, “Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions,” GHG Pollution Standard GHG Reduction Targets & GHG Policy Paper, 7/13/2021, Exhibit 8, accessed on 10/4/2021 at https://www.codot.gov/business/rules/documents/00_2ccr60122_exhibits_redacted.pdf, See page 274.

¹⁸ The Congestion Mitigation and Air Quality (CMAQ) program allows intermittent or limited funding for these strategies, including fare subsidies only during ozone action days and transit operations funding for new service for up to five years. The Surface Transportation Block Grant (STBG) program cannot subsidize transit fares or fund transit operations.



4. Correct Errors in GHG Reduction Levels

As explained in the CBA, the GHG Reduction Levels in the proposed rule “assume a high level of electrification of the future vehicle fleet” which results in “absolute GHG reductions from VMT measures [that] are substantially lower in 2050 than in 2030.”¹⁹ According to the proposed rule, the light duty fleet is assumed to be 97 percent electric by 2050 (See §8.01.1). With only three percent of light duty vehicles emitting at the tailpipe in 2050, and with the scenario informing the GHG Reduction Levels primarily relying on reductions to light duty VMT, the GHG Reduction Levels for 2050 in each regional area are unreasonably high. Across the state, the 2050 GHG Reduction Levels sum to 0.7 MMT, a reduction value which would require no more than 32 percent of light-duty vehicles to be electric given a light duty VMT reduction of 12 percent.²⁰

The unreasonably high GHG Reduction Levels in 2050 and other out years are likely caused, at least in part, by inadvertently applying the reductions in light duty VMT to all vehicle types when transferring the outputs of the travel model into the air quality model. The NFRMPO recommends recalculating the GHG Reduction Levels to ensure they accurately represent emissions reductions given the high percentage of light duty EVs assumed in the future.

5. Require Reassessment of GHG Reduction Levels

No provision is provided in the rule for reassessing the GHG Reduction Levels to determine if they are still feasible. The rule focuses solely on GHG reductions through planning efforts, such as VMT reductions, which are less effective at reducing GHG emissions when vehicle technologies improve.²¹ With technology rapidly changing the transportation sector, the GHG Reduction Levels should be regularly reassessed with consideration of factors such as fuel economy standards and EV shares to determine if the planning-related GHG Reduction Levels are feasible.

Regular revisions to GHG targets are a component of California’s GHG requirement for MPOs under SB 375. Specifically, the California Air Resources Board (CARB) is required to update the regional GHG targets for MPOs every eight years and has the option of revising the targets every four years.²²

The NFRMPO recommends the rule should require the GHG Reduction Levels be reassessed at least every four years by the State Interagency Consultation Team to ensure the GHG Reduction Levels are still feasible. In addition, the rule should allow MPOs, CDOT, and the TC to request a feasibility review at any time by the State Interagency Consultation Team, with the State Interagency Consultation Team retaining discretion over which requests to fulfill. Upon completion of a feasibility review, the TC would

¹⁹ CDOT, Cost-Benefit Analysis For Rules Governing Statewide Transportation Planning, 8/31/2021, accessed from <https://www.codot.gov/business/rules/documents/cdot-cost-benefit-analysis-for-ghg-rule-sept-2021.pdf>, page 24.

²⁰ As shown in Table A.11 of the CBA, the Proposed Rule Implementation Scenario reduces light duty VMT by 9,814 million miles in 2050 compared to the 78,587 million miles expected for the baseline scenario in 2050, which corresponds to a 12 percent reduction in VMT.

²¹ Consider, for example, the potential GHG emissions resulting from reducing VMT by five percent if the average fuel economy of the fleet is 25 mpg vs an average fuel economy of 50 mpg.

²² California Air Resources Board, “SB 375 Regional Plan Climate Targets”, accessed on 10/4/2021 at <https://ww2.arb.ca.gov/our-work/programs/sustainable-communities-program/regional-plan-targets>.



have the opportunity to commence a rulemaking to allow the GHG Reduction Levels to potentially be revised.

6. Expand Implementers of GHG Mitigation Measures

The proposed rule defines GHG Mitigation Measures as “non-Regionally Significant Project strategies *implemented by CDOT and MPOs* that reduce transportation GHG pollution” (See §1.19, emphasis added). However, the illustrative examples of GHG Mitigation Measures in §8.03 of the proposed rule include several measures that cannot be implemented by MPOs, such as:

- Adding transit resources to displace VMT (see page 8 of this comment letter),
- Adopting parking policies, and
- Establishing clean construction policies.

The NFRMPO recommends the rule not restrict implementers of GHG Mitigation Measures to only CDOT and MPOs. Many of the illustrative examples of GHG Mitigation Measures are implemented by transit agencies and local governments and the efforts of those entities should count toward the region’s transportation GHG emissions reductions targets.

7. Include Operations Strategies in the GHG Mitigation Measures

The illustrative examples of GHG Mitigation Measures in §8.03 of the proposed rule should include representative examples from the full range of strategies available to CDOT and MPOs to reduce GHG emissions from transportation, including operations strategies. As explained on page 4 of this comment letter, the CAA includes operations improvement strategies in the list of TCMs, and the CAA’s TCMs should serve as a template and resource for the State’s GHG rule.

Specifically, the NFRMPO recommends adding the following example to the illustrative list of GHG Mitigation Measures in §8.03 of the proposed rule:

“Implementing or encouraging the implementation of operations improvements such as ramp metering, signal timing, intersection improvements, access control plans, anti-idling programs, incident management, and Intelligent Transportation Systems (ITS) strategies that result in GHG reductions.”

8. Require a Vote of the TC to Deny Waiver and Reconsideration Requests

If the TC determines the GHG Transportation Report is non-compliant, the proposed rule offers two options for an MPO, CDOT, or TPR in a non-MPO area to request accommodations: waivers and reconsiderations. The waiver option could allow for specific projects not expected to reduce GHG emissions to proceed and the reconsideration option could allow for the TC to reconsider a non-compliance determination.

These two options are important provisions in the proposed rule and should be retained. Currently, the proposed rule allows the TC to deny waiver requests and deny requests for reconsideration without review by the TC and without a vote, simply by not taking up the request (See §8.05.2.3). Instead of allowing automatic denial of such requests through inaction, the NFRMPO recommends the rule require the TC to go on record with a vote to deny waiver and reconsideration requests.



9. Remove or Modify Requirement for TIPs

The proposed rule applies to Transportation Improvement Programs (TIPs) for MPOs in nonattainment areas but it does not apply to the Statewide Transportation Improvement Program (STIP) even though some portions of the non-MPO area are designated as nonattainment areas. To provide consistency in MPO and non-MPO areas, the NFRMPO recommends removing or modifying the requirements for TIPs.

The proposed rule requires a GHG Transportation Report for each applicable planning document, which includes TIPs for MPOs in nonattainment areas. TIPs provide the short-range program of projects, typically covering four years. In accordance with federal requirements, TIPs must be consistent with long-range regional transportation plans (RTP), which means any regionally significant project included in the TIP must also be included in the RTP. It is unclear from the proposed rule if two separate GHG Transportation Reports are required when adopting a TIP and RTP, or if the same report can be used for both documents.

The NFRMPO recommends removing the requirements for TIPs for MPOs in nonattainment areas, which would provide consistency with the approach used for nonattainment areas outside of MPOs. Alternatively, the NFRMPO recommends modifying the requirement to clarify that TIPs consistent with the RTP can rely on the GHG Transportation Report for the associated RTP.

10. Remove Restrictions on CMAQ-Funded Projects

For areas that cannot meet the specified GHG Reduction Levels, the proposed rule would restrict the types of projects eligible for some of the State's 10-Year Plan funds and, if available within the region, the rule would restrict the type of projects eligible for federal funding from the Congestion Mitigation and Air Quality (CMAQ) and Surface Transportation Block Grant (STBG) programs awarded through the MPO.

CMAQ funding is awarded to projects that reduce federally regulated criteria pollutants including carbon monoxide, ozone precursors, and particulate matter. In the NFRMPO, CMAQ funds are often awarded to alternative fuel transit buses, such as electric buses and Compressed Natural Gas (CNG) buses, and to ITS and operations improvements. Based on the current rule language, it is unclear if these project types could receive CMAQ funds in the event the NFRMPO cannot meet the specified GHG Reduction Levels. Importantly, the NFRMPO does not restrict the types of projects that can be submitted for CMAQ funding and uses scoring criteria that emphasize the amount of ozone precursor emissions reductions achieved by the project and the cost effectiveness of those emissions reductions.

With the Denver Metro/North Front Range area designated by the EPA as Nonattainment for ozone, the NFRMPO recommends CMAQ funding should continue to be awarded to projects that most effectively reduce ozone precursors regardless of the region's ability to meet the GHG Reduction Levels specified in the proposed rule.

11. Allow Non-Regionally Significant Projects Funded with STBG to Proceed

As explained in Recommendation #10, the proposed rule imposes restrictions on the types of projects eligible to receive CMAQ, STBG, and some 10-year Plan funds in the event the GHG Reduction Levels cannot be achieved. The 10-Year Plan fund restriction in the proposed rule applies only to regionally



significant projects, whereas the CMAQ and STBG restriction applies to all projects. STBG funding is awarded to projects that meet needs identified in the federally required metropolitan planning process, such as safety, mobility, and operations.

The NFRMPO recommends non-regionally significant projects funded with STBG, such as important safety and operations improvements, be able to proceed without a waiver in the event the GHG Reduction Levels cannot be achieved, similar to non-regionally significant projects funded with the State's 10-Year Plan funds.

12. Additional Clarifications to Processes

There are a variety of other process clarifications recommended in the attached redline, including, but not limited to the following:

- Allowing a waiver to be requested at any time, including concurrently with the submission of a GHG Transportation Report.
- Allowing up to sixty (60) days to submit a request for reconsideration instead of thirty (30) days.
- Clarifying which projects are subject to funding restrictions based on project implementation status.
- Allowing conflicts to be resolved through the Governor, similar to the process used in federal air quality conformity.
- Clarifying the timing and requirements of the Mitigation Action Plan.
- Ensuring the APCD Verification is available to the TC.
- Streamlining the Annual Status Report on GHG Mitigation Measures by allowing measures to be grouped.
- Identifying additional responsibilities for the State Interagency Consultation Team.
- Requiring TC Action on GHG Transportation Reports within sixty (60) days, instead of allowing an unlimited time for TC Action.

13. Clarify and Update Assumptions in the Cost-Benefit Analysis

The Cost-Benefit Analysis is an important resource for the proposed rule by providing an explanation of the policy choices included in the scenario selected to set the GHG Reduction levels and by assessing the costs and benefits of the proposed rule. The NFRMPO suggests clarifying the following assumptions in the CBA:

- The CBA identifies the total cost of projects in the five MPOs' long-range plans and CDOT's 10-Year Plan for 2022 through 2050 as \$28B in 2021 dollars. This value is well below the sum of expenditures identified in the NFRMPO's 2045 RTP and DRCOG's 2050 RTP, which exceeds \$100B. The CBA should clarify which project types were used to calculate the \$28B cost. The CBA should also be updated to clarify that long-range plans are federally required to be fiscally constrained and to account for the cost of operations and maintenance.



- Several of the Tables in Appendix A: Detailed Analysis of Economic Benefits and Costs, appear to have sufficient explanations in the associated “basis for cost estimates” section to calculate the costs displayed in the associated table; however, NFRMPO staff have been unsuccessful in calculating the costs displayed in the table using the provided information. In each case, the values calculated by NFRMPO staff using the information in the “basis for cost estimates” result in costs that are 2.4 to 3.7 times higher than the costs displayed in the associated table. The CBA should be updated to clarify the “basis for cost estimates” and/or correct any errors in the identified costs.
- Several of the unit costs appear to be too low and rely on out-of-state or nationwide sources that may not apply to Colorado. For example, the CBA uses a unit cost of \$170,000 per mile for new or replaced sidewalk sourced from the Florida Department of Transportation (FDOT). For Colorado, a report from CoPIRG Foundation and Southwest Energy Efficiency Project (SWEET) identifies costs of \$282,691 per mile of new sidewalk and \$192,931 per mile of replaced sidewalk.²³
- The CBA does not account for the costs of transit electrification or the costs of reducing transit fares but still references these strategies as included in the scenarios and therefore in the GHG Reduction Levels. It appears the benefits of transit electrification and reducing transit fares are included in the rule and CBA without accounting for their costs.
- The CBA estimates cost savings from improved safety by assuming fatality and injury motor vehicle crashes are “reduced in proportion to VMT reduced”.²⁴ This assumption fails to consider the alarming increase in traffic fatalities that occurred concurrently with substantial reductions in VMT in 2020. According to the National Highway Traffic Safety Administration, early data indicate traffic fatalities increased 7.2 percent from 2019 to 2020 in the U.S. even as VMT decreased by an estimated 13.2 percent nationwide over the same time period.²⁵ The increase in fatalities is suspected to be due in part to speeding occurring when fewer vehicles are on the road.²⁶ The CBA should be updated to provide a more realistic estimate of the impacts of reduced VMT on safety and/or consider the costs of the necessary street calming efforts to ensure improved safety can be delivered concurrently with reduced VMT.

²³ CoPIRG and SWEET, “Colorado’s Transit, Biking & Walking Needs Over The Next 25 Years,” August 2016, accessed on 10/4/2021 at https://copirgfoundation.org/sites/pirg/files/reports/COPIRG%20Transit%20Report_Screen.pdf. The report identifies costs of \$36.54 per linear foot of sidewalk and \$34.64 per linear foot of curb and gutter, which are assumed to be required in 50 percent of new sidewalks.

²⁴ CDOT, Cost-Benefit Analysis For Rules Governing Statewide Transportation Planning, 8/31/2021, accessed from <https://www.codot.gov/business/rules/documents/cdot-cost-benefit-analysis-for-ghg-rule-sept-2021.pdf>, page 26.

²⁵ NHTSA, “2020 Fatality Data Show Increased Traffic Fatalities During Pandemic”, 6/3/2021, accessed on 10/4/2021 at <https://www.nhtsa.gov/press-releases/2020-fatality-data-show-increased-traffic-fatalities-during-pandemic>.

²⁶ Minor, Nathaniel. “Colorado’s Roads are Empty, But Deadlier So Far This Year,” 9/2/2021, accessed on 10/4/2021 at <https://www.cpr.org/2020/09/02/colorados-roads-are-empty-but-deadlier-so-far-this-year/>.



Conclusion

The NFRMPO recognizes the importance of reducing GHG emissions resulting from the implementation of transportation plans and contends that setting GHG reductions at feasible levels will provide meaningful contributions to the State's GHG reduction goals. In addition to helping to achieve GHG reductions, the proposed rule would also provide co-benefits by reducing ozone precursor emissions and expanding transportation options.

The NFRMPO appreciates the time and effort CDOT staff has committed to developing a rule to reduce GHG emissions resulting from implementation of transportation plans. We respectfully request the Hearing Officers, TC Ad Hoc Committee, and the TC consider the enclosed recommendations and ensure there is adequate time for public comment. The NFRMPO looks forward to continuing the collaboration with CDOT staff in the development of this rulemaking and in subsequent implementation efforts. If you have any questions, please contact Medora Bornhoft at mbornhoft@nfrmpo.org.

Sincerely,

William Karspeck, NFRMPO Chair

DRAFT

NFRMPO Suggested Redlines, 10/XX/2021

Formatting Key:

Revisions Proposed by CDOT - Green

NFRMPO Round 1 Redlines (9/8/2021) - Purple

NFRMPO Round 2 Redlines (10/XX/2021) - Red

DEPARTMENT OF TRANSPORTATION

Transportation Commission

RULES GOVERNING STATEWIDE TRANSPORTATION PLANNING PROCESS AND TRANSPORTATION PLANNING REGIONS

2 CCR 601-22

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

August 13, 2021, Version

Please note the following formatting key:

Font Effect	Meaning
<u>Underline</u>	New Language
Strikethrough	Deletions
[Blue Font Text]	Annotation

STATEMENT OF BASIS AND PURPOSE, ~~AND~~ STATUTORY AUTHORITY AND PREAMBLE

The purpose of the Rules Governing the Statewide Transportation Planning Process and Transportation Planning Regions (Rules) is to prescribe the statewide transportation planning process through which a long-range ~~multimodal~~Multimodal, comprehensive ~~statewide~~Statewide transportation~~Transportation plan~~Plan will be developed, integrated, updated, and amended by the Colorado Department of Transportation (Department ~~or~~CDOT), in cooperation with local governments, Metropolitan Planning Organizations (MPOs), Regional Planning Commissions, Indian tribal governments, relevant state and federal agencies, the private sector, transit and freight operators, ~~special-interest-groups~~, and the general public. This cooperative process is designed to coordinate regional transportation planning, guided by the statewide transportation policy set by the Department and the ~~transportation~~Transportation commissionCommission of Colorado ("Commission"), as a basis for developing the ~~statewide~~Statewide transportation~~Transportation plan~~Plan. The result of the statewide transportation planning process shall be a long-range, financially feasible, environmentally sound, ~~multimodal~~Multimodal transportation system plan for Colorado that will reduce traffic and smog.

Further, the purpose of the Rules is to define the state's Transportation Planning Regions for which long-range Regional Transportation Plans are developed, prescribe the process for conducting and initiating transportation planning in the non-MPO Transportation Planning Regions and coordinating with the ~~Metropolitan Planning Organizations~~MPOs for planning in the metropolitan areas. Memoranda of Agreement (MOA) that serve as the Metropolitan Planning Agreements (MPAs) ~~per~~per ~~pursuant to~~per 23 C.F.R. § 450 between the Department, each MPO, and applicable transit provider(s) further prescribe the transportation planning process in the MPO ~~transportation~~Transportation planning~~Planning~~regionsRegions. In addition, the purpose of the Rules is to describe the organization and function of the

Statewide Transportation Advisory Committee (STAC) as established by § 43-1-1104, Colorado Revised Statutes (C.R.S.).

The Rules are promulgated to meet the intent of both the U.S. Congress and the Colorado General Assembly for conducting a continuing, cooperative, and comprehensive statewide performance-based ~~multimodal~~ **Multimodal** transportation planning process for producing a Statewide Transportation Plan and Regional Transportation Plans that address the transportation needs of the ~~state~~ **State**. This planning process, through comprehensive input, results in systematic project prioritization and resource allocation.

The Rules, governing the statewide planning process, emphasize Colorado's continually greater integration of Multimodal, cost-effective, and environmentally sound means of transportation which leads to cleaner air and reduced traffic. The Rules reflect the Commission's and the Department's focus on Multimodal transportation projects including highways, transit, rail, bicycles and pedestrians. Section 8 of these Rules establishes an ongoing administrative process for identifying, measuring, confirming, and verifying those best practices and their impacts, so that CDOT and MPOs can easily apply them to their plans in order to achieve the pollution reduction levels required by these Rules.

The Rules are promulgated by the Commission pursuant to the specific statutory authority in § 43-1-1103 (5), C.R.S., and § 43-1-106 (8)(k), C.R.S.

Preamble for 2018 Rulemaking

In 2018, rulemaking was initiated to update the rules to conform to recently passed federal legislation, update expired rules, clarify the membership and duties of the ~~Statewide Transportation Advisory Committee~~ **STAC** pursuant to HB 16-1169 and HB 16-1018, and to make other minor corrections. The Rules are intended to be consistent with and not be a replacement for the federal transportation planning requirements contained in 23 United States Code (U.S.C.) §§ 134, 135 and 150, Pub. L. No. 114-94 (Fixing America's Surface Transportation Act or the "FAST Act") signed into law on December 4, 2015, and its implementing regulations, where applicable, contained in 23 Code of Federal Regulations (C.F.R.) Part 450, including Subparts A, B and C and 25 C.F.R. § 170.421 in effect as of August 1, 2017, which are hereby incorporated into the Rules by this reference, and do not include any later amendments. All referenced laws and regulations shall be available for copying or public inspection during regular business hours from the Office of Policy and Government Relations, Colorado Department of Transportation, 2829 W. Howard Pl., Denver, Colorado 80204.

Copies of the referenced United States Code may be obtained from the following address:

Office of the Law Revision Counsel
U.S. House of Representatives
H2-308 Ford House Office Building
Washington, DC 20545
(202) 226-2411

Copies of the referenced Code of Federal Regulations may be obtained from the following address:

U.S. Government Publishing Office
732 North Capitol Street, N.W.
Washington, DC 20401
(202) 512-1800

The Statewide Planning Rules, governing the statewide planning process, emphasize Colorado's continually greater integration of multimodal, cost-effective and environmentally sound means of transportation. The Rules reflect the Department's focus on multimodal transportation projects including highways, aviation, transit, rail, bicycles and pedestrians.

The Rules are promulgated by the Commission pursuant to the specific statutory authority in § 43-1-1103 (5), C.R.S., and § 43-1-106 (8)(k), C.R.S. The Commission may, at their discretion, entertain petitions for declaratory orders pursuant to § 24-4-105(11), C.R.S.

Preamble for 2021 Rulemaking

Overview

Section 8 of these Rules establishes Greenhouse Gas (GHG) pollution reduction planning levels for transportation that will improve air quality, reduce smog, and provide more sustainable options for travelers across Colorado. The purpose of these requirements is to limit the GHG pollution which would result from the transportation system if the plan was implemented, consistent with the state greenhouse gas pollution reduction roadmap. This is accomplished by requiring CDOT and MPOs to establish plans that meet targets through a mix of projects that limit and mitigate air pollution and improve quality of life and Multimodal options. CDOT and MPOs will be required to demonstrate through travel demand modeling and approved air quality modeling that statewide and regional aggregate emissions resulting from its state or regional plans do not exceed a specified emissions level in total. In the event that a plan fails to comply, CDOT and MPOs have the option to commit to implementing GHG Mitigation Measures that provide travelers with cleaner and more equitable transportation options such as safer pedestrian crossings and sidewalks, better transit and transit-access, or infrastructure that supports access to housing, jobs, and retail.

Examples of these types of mitigations, which also benefit quality of place and the economic resilience of communities, will include but not be limited to: adding bus rapid transit facilities and services, enhancing first-and-last mile connections to transit, adding bike-sharing services including electric bikes, improving pedestrian facilities like sidewalks and safe accessible crosswalks, investments that support vibrant downtown density and local zoning decisions that favor sustainable building codes and inclusive multi-use facilities downtown, and more. The process of identifying and approving mitigations will be established by a policy process that allows for ongoing innovations from local governments and other partners to be considered on an iterative basis.

If compliance still cannot be demonstrated, even after committing to GHG Mitigation Measures, the Commission shall restrict the use of certain funds, requiring that dollars be focused on projects that help reduce transportation emissions and/or are recognized as approved mitigations. These requirements address the Colorado General Assembly's directive to reduce statewide GHG pollution in § 25-7-102(2)(g), C.R.S., as well as the directive for transportation planning to consider environmental stewardship and reducing GHG emissions, § 43-1-1103(5), C.R.S.

Commented [MB1]: The rule says or, not and.

Context of Section 8 of these Rules Within Statewide Objectives

The passage of House Bill (HB)19-1261 set Colorado on a course to dramatically reduce GHG emissions across all sectors of the economy. 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 "climate 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 "many of these impacts disproportionately affect" certain Disproportionately Impacted Communities. see § 25-7-102(2), C.R.S. The General Assembly also recognized that "[b]y reducing [GHG] 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." see § 25-7-102(2)(d), C.R.S.

Since 2019, the State has been rigorously developing a plan 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). The Roadmap identified the transportation sector as the single largest source of statewide GHG pollution as of 2020, with passenger vehicles the largest contributor within the transportation sector. 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." see Roadmap, p. XII.

A key finding in the Roadmap recognized that "[m]aking changes to transportation planning and infrastructure to reduce growth in driving is an important tool" to meet the statewide GHG pollution reduction goals. see Roadmap, p. 32. Section 8 of these Rules also advances the State's goals to reduce emissions of other harmful air pollutants, including ozone.

Why the Commission is Taking This Action

Senate Bill 21-260, signed into law by the Governor on June 17, 2021, and effective upon signature, includes a new § 43-1-128, C.R.S., which directs CDOT and MPOs to engage in an enhanced level of planning, modeling and other analysis to minimize the adverse environmental and health impacts of planned transportation capacity projects. Section 43-1-128, C.R.S. also directs CDOT and the Commission to take steps to account for the impacts of transportation capacity projects on GHG pollution and Vehicle Miles Traveled and to help achieve statewide GHG pollution targets established in § 25-7-102(2)(g), C.R.S.

Under Colorado law governing transportation planning, CDOT is charged with and identified as the proper body for "developing and maintaining the state transportation planning process and the state transportation plan" in cooperation with Regional Planning Commissions and local government officials. see § 43-1-1101, C.R.S.

The Commission is responsible for formulating policy with respect to transportation systems in the State and promulgating and adopting all CDOT financial budgets for construction based on the Statewide Transportation Improvement Programs. see § 43-1-106(8), C.R.S. The Commission is statutorily charged "to assure that the preservation and enhancement of Colorado's environment, safety, mobility and economics be considered in the planning, selection, construction and operation of all transportation projects in Colorado." see § 43-1-106(8)(b), C.R.S. In addition, the Commission is generally authorized "to make all necessary and reasonable orders, rules and regulations in order to carry out the provisions of this part . . ." see § 43-1-106(8)(k), C.R.S.

As such, CDOT and the Commission are primarily responsible for ensuring compliance with GHG reductions in transportation planning.

What Relevant Regulations Currently Apply to Transportation Planning

Transportation planning is subject to both state and federal requirements. Under federal law governing transportation planning and federal-aid highways, it is declared to be in the national interest to promote transportation systems that accomplish a number of mobility objectives "while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes..." see 23 U.S.C. § 134; see also 23 U.S.C. § 135(a)(1). In the metropolitan planning process, consideration must be given to projects and strategies that will "protect and enhance the environment, promote energy conservation, improve the quality of life..." see 23 U.S.C. § 134(h)(1)(E); see also 23 C.F.R. Part 450, Subpart B (federal regulations governing statewide transportation planning and programming). The same planning objective applies to statewide transportation planning. see 23 U.S.C. § 135(d)(1)(E); see also 23 C.F.R. Part 450, Subpart C (governing metropolitan transportation planning and programming). Further, the Statewide Transportation Plan shall be developed, as appropriate, in consultation with State...local agencies responsible for...environmental protection..." see 23 U.S.C. § 135(f)(2)(D)(i).

Under conforming Colorado law, the Statewide Transportation Plan is developed by integrating and consolidating Regional Transportation Plans developed by MPOs and regional transportation planning organizations into a "comprehensive statewide transportation plan" pursuant to rules and regulations promulgated by the Commission. see § 43-1-1103(5), C.R.S. The Statewide Transportation Plan must

address a number of factors including, but not limited to, "environmental stewardship" and "reduction of greenhouse gas emissions." see § 43-1-1103(5)(h) and (i), C.R.S.

Regional Transportation Plans must account for the "expected environmental, social, and economic impacts of the recommendations in the plan, including a full range of reasonable transportation alternatives...in order to provide for the transportation and environmental needs of the area in a safe and efficient manner." see § 43-1-1103(1)(d), C.R.S. Further, in developing Regional Transportation Plans, MPOs "[s]hall assist other agencies in developing transportation control measures for utilization in accordance with state...regulations...and shall identify and evaluate measures that show promise of supporting clean air objectives." see § 43-1-1103(1)(e), C.R.S.

Putting Section 8 of these Rules into Perspective

Section 8 establishes GHG regulatory requirements that are among the first of their kind in the U.S. However, from an air pollutant standpoint, connecting transportation planning to emissions is not a new policy area. In fact, transportation conformity provisions within the Clean Air Act approach ozone much the same way. Transportation conformity ensures that federally funded or approved highway and transit activities within a Nonattainment Area are consistent with or "conform to" a state's plan to reduce emissions. Colorado's front range has been in ozone nonattainment for many years, which has required the North Front Range and the Denver Regional Council of Governments' MPOs to demonstrate conformity with each plan adoption and amendment.

However, because the transportation sector encompasses the millions of individual choices people make every day that have an impact on climate, a variety of strategies are necessary to achieve the State's climate goals. Section 8 of these Rules is one of many steps needed to achieve the totality of reduction goals for the transportation sector.

Purpose of GHG Mitigation Measures

The transportation modeling conducted for this rulemaking may demonstrate that certain projects increase GHG pollution for a variety of reasons. These reasons may include factors such as induced demand as a result of additional lane mileage attracting additional vehicular traffic, or additional traffic facilitated by access to new commercial or residential development in the absence of public transit options or bicycle/pedestrian access that provides consumers with other non-driving options. Transportation infrastructure itself can also increase or decrease GHG and other air pollutants by virtue of factors like certain construction materials, removal or addition of tree cover that captures carbon pollution, or integration with vertical construction templates of various efficiencies that result in higher or lower levels of per capita energy use. The pollution impacts of various infrastructure projects will vary significantly depending on their specifics and must be modeled in a manner that is context-sensitive to a range of issues such as location, footprint of existing infrastructure, design, and how it fits together with transportation alternatives.

Furthermore, other aspects of transportation infrastructure can facilitate reductions in emissions and thus serve as mitigations rather than contributors to pollution. For example, the addition of transit resources in a manner that can displace Vehicle Miles Traveled can reduce emissions. Moreover, improving downtown pedestrian and bike access, particularly in areas that allow individuals to shift multiple daily trips for everything from work to dining to retail, can improve both emissions and quality of life.

There is an increasing array of proven best practices for reducing pollution and smog and improving economies and neighborhoods that can help streamline decision-making for state and local agencies developing plans and programs of projects.

[Note: The Commission proposes to repeal Section 1 of these Rules in its entirety and re-enact Section 1 of these Rules below to re-format the numbering of the administrative rules into alphabetical order.]

1.00 — Definitions.

- 1.01 — Accessible — ensure that reasonable efforts are made that all meetings are reachable by persons from households without vehicles and that the meetings will be accessible to persons with disabilities in accordance with the Americans with Disabilities Act (ADA), and also accessible to persons with limited English proficiency. Accessible opportunities to on planning related matters include those provided on the internet and through such methods as telephone town halls.
comment
- 1.02 — Attainment Area — any geographic region of the United States that meets the national primary or secondary National Ambient Air Quality Standards (NAAQS) for the pollutants as defined in the Clean Air Act (CAA) (Amendments of 1990).
- 1.03 — Commission — the transportation commission of Colorado created by § 43-1-106, C.R.S.
- 1.04 — Corridor — a transportation system that includes all modes and facilities within a described geographic area.
- 1.05 — Corridor Vision — a comprehensive examination of a specific transportation corridor, which includes a determination of needs and an expression of desired state of the transportation system that includes transportation modes and facilities over a planning period.
- 1.06 — Department — the Colorado Department of Transportation created by § 43-1-103, C.R.S.
- 1.07 — Division — the Division of Transportation Development within the Colorado Department of Transportation.
- 1.08 — Division Director — the Director of the Division of Transportation Development.
- 1.09 — Fiscally Constrained — the financial limitation on transportation plans and programs based on the projection of revenues as developed cooperatively with the MPOs and the rural TPRs and adopted by the Commission that are reasonably expected to be available over the long-range transportation planning period and the Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) programming periods.
- 1.10 — Intergovernmental Agreement — an arrangement made between two or more political subdivisions that form associations for the purpose of promoting the interest and welfare of said subdivisions.
- 1.11 — Intermodal Facility — A site where goods or people are conveyed from one mode of transportation to another, such as goods from rail to truck or people from passenger vehicle to bus.
- 1.12 — Land Use — the type, size, arrangement, and use of parcels of land.
- 1.13 — Limited English Proficiency (LEP) — individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
- 1.14 — Long-range Planning — a reference to a planning period with a minimum 20-year planning horizon.
- 1.15 — Maintenance Area — any geographic region of the United States previously designated by the U.S. Environmental Protection Agency (EPA) as a nonattainment area pursuant to the Clean Air Act (CAA) Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the CAA, as amended in 1990.
- 1.16 — Memorandum of Agreement (MOA) — a written agreement between two or more parties on an intended plan of action.

- 1.17 — Metropolitan Planning Agreement (MPA) — a written agreement between the MPO, the State, and the providers of public transportation serving the metropolitan planning area that describes how they will work cooperatively to meet their mutual responsibilities in carrying out the metropolitan planning process.
- 1.18 — Metropolitan Planning Area — a geographic area determined by agreement between the Metropolitan Planning Organization for the area and the Governor, in which the metropolitan transportation planning process is carried out pursuant to 23 U.S.C. § 134.
- 1.19 — Metropolitan Planning Organization (MPO) — an organization designated by agreement among the units of general purpose local governments and the Governor, charged to develop the regional transportation plans and programs in a metropolitan planning area pursuant to 23 U.S.C. § 134.
- 1.20 — Mobility — the ability to move people, goods, services, and information among various origins and destinations.
- 1.21 — Multimodal — an integrated approach to transportation that takes into account all modes of travel, such as bicycles and walking, personal mobility devices, buses, transit, rail, aircraft, and motor vehicles.
- 1.22 — National Ambient Air Quality Standards (NAAQS) — are those established by the U.S. Environmental Protection Agency for air pollutants considered harmful to public health and environment. These criteria pollutants are: carbon monoxide, lead, nitrogen dioxide, ozone, small particles, and sulfur dioxide.
- 1.23 — Nonattainment Area — any geographic region of the United States which has been designated by the EPA under section 107 of the CAA for any pollutants for which an NAAQS exists.
- 1.24 — Non-metropolitan Area — a rural geographic area outside a designated metropolitan planning area.
- 1.25 — Plan Integration — Plan integration is a comprehensive evaluation of the statewide transportation system that includes all modes, an identification of needs and priorities, and key information from other related CDOT plans.
- 1.26 — Planning Partners — local and tribal governments, the rural Transportation Planning Regions and MPOs.
- 1.27 — Project Priority Programming Process (“4P”) — the process by which CDOT adheres to 23 U.S.C. § 135 and 23 C.F.R. Part 450 when developing and amending the statewide transportation improvement program (STIP).
- 1.28 — Regional Planning Commission (RPC) — a planning body formed under the provisions of § 30-28-105, C.R.S., and designated under these Rules for the purpose of transportation planning within a rural Transportation Planning Region.
- 1.29 — Regional Transportation Plan (RTP) — a long-range plan designed to address the future transportation needs for a Transportation Planning Region including, but not limited to, anticipated funding, priorities, and implementation plans, pursuant to, but not limited to, § 43-1-1103, C.R.S. and 23 C.F.R. Part 450. All rural and urban Transportation Planning Regions in the state produce RTPs.
- 1.30 — State Transportation System — refers to all state-owned, operated, and maintained transportation facilities in Colorado, including, but not limited to, interstate highways, other highways, and aviation, bicycle and pedestrian, transit, and rail facilities.

- 1.31 — ~~Statewide Transportation Advisory Committee (STAC) — the committee created by § 43-1-1104, C.R.S., comprising one representative from each Transportation Planning Region and one representative from each tribal government to review and comment on Regional Transportation Plans, amendments, and updates, and to advise both the Department and the Commission on the needs of the transportation system in Colorado.~~
- 1.32 — ~~Statewide Transportation Improvement Program (STIP) — a staged, fiscally constrained, multi-year, statewide, multimodal program of transportation projects which is consistent with the statewide transportation plan and planning processes, with metropolitan planning area plans, Transportation Improvement Programs and processes, and which is developed pursuant to 23 U.S.C. § 135.~~
- 1.33 — ~~Statewide Transportation Plan — the long-range, comprehensive, multimodal statewide transportation plan covering a period of no less than 20 years from time of adoption, developed through the statewide transportation planning process described in these Rules and 23 U.S.C. § 135, and adopted by the Commission pursuant to § 43-1-1103, C.R.S.~~
- 1.34 — ~~System Continuity — includes, but is not limited to, appropriate intermodal connections, integration with state modal plans, and coordination with neighboring Regional Transportation Plans, and, to the extent practicable, other neighboring states' transportation plans.~~
- 1.35 — ~~Traditionally Underserved — refers to groups such as seniors, persons with disabilities, low-income households, minorities, and student populations, which may face difficulties accessing transportation systems, employment, services, and other amenities.~~
- 1.36 — ~~Transit and Rail Advisory Committee (TRAC) — an advisory committee created specifically to advise the Executive Director, the Commission, and the Division of Transit and Rail on transit and rail-related activities.~~
- 1.37 — ~~Transportation Commonality — the basis on which Transportation Planning Regions are established including, but not limited to: Transportation Commission Districts, the Department's Engineering Regions, travelsheds, watersheds, geographic unity, existing intergovernmental agreements, and socioeconomic unity.~~
- 1.38 — ~~Transportation Improvement Program (TIP) — a staged, fiscally constrained, multi-year, multimodal program of transportation projects developed and adopted by MPOs, and approved by the Governor, which is consistent with an MPO's RTP and which is developed pursuant to 23 U.S.C. § 134.~~
- 1.39 — ~~Transportation Mode — a particular form of travel including, but not limited to, bus, motor vehicle, rail, transit, aircraft, bicycle, pedestrian travel, or personal mobility devices.~~
- 1.40 — ~~Transportation Planning and Programming Process — all collaborative planning-related activities including the development of regional and statewide transportation plans, the Department's Project Priority Programming Process, and development of the Transportation Improvement Programs (TIPs) and Statewide Transportation Improvement Program (STIP).~~
- 1.41 — ~~Transportation Planning Region (TPR) — a geographically designated area of the state, defined by section 2.00 of these Rules in consideration of the criteria for transportation commonality, and for which a regional transportation plan is developed pursuant to the provisions of § 43-1-1102 and 1103, C.R.S. and 23 U.S.C. § 134. The term TPR is inclusive of these types: non-MPO Transportation Planning Regions, MPO Transportation Planning Regions, and Transportation Planning Regions with both MPO and non-MPO areas.~~

- 1.42 — Transportation Systems Planning — provides the basis for identifying current and future deficiencies on the state highway system and outlines strategies to address those deficiencies and make improvements to meet Department goals.
- 1.43 — Travelshed — the region or area generally served by a major transportation facility, system, or corridor.
- 1.44 — Tribal Transportation Improvement Program (TTIP) — a multi-year fiscally constrained list of proposed transportation projects developed by a tribe from the tribal priority list or tribal long-range transportation plan, and which is developed pursuant to 25 C.F.R. Part 170. The TTIP is incorporated into the STIP without modification.
- 1.45 — Urbanized Area — an area with a population of 50,000 or more designated by the Bureau of the Census.
- 1.46 — Watershed — a land area that drains to a common waterway, such as a stream, lake, estuary, wetland, or ultimately the ocean.

[Note: The Commission proposes to add nineteen (19) new definitions. New proposed defined terms include: Applicable Planning Document, Approved Air Quality Model, Baseline, Carbon Dioxide Equivalent, Congestion Mitigation and Air Quality, Disproportionately Impacted Communities, Four-Year Prioritized Plan, Greenhouse Gas, Greenhouse Mitigation Measures, Greenhouse Gas Reduction Levels, Mitigation Action Plan, MPO Model, Multimodal Transportation and Mitigation Options Fund, Regionally Significant Project, State Interagency Consultation Team, Statewide Travel Model, Surface Transportation Block Grant, Vehicle Miles Traveled, and 10-Year Plan. Only minor non-substantive changes, such as correcting grammar errors or capitalizing defined terms, were made to the existing forty-six (46) defined terms.]

1.00 Definitions.

- 1.01 Accessible - ensure that reasonable efforts are made that all meetings are reachable by persons from households without vehicles and that the meetings will be accessible to persons with disabilities in accordance with the Americans with Disabilities Act (ADA), and also accessible to persons with Limited English Proficiency. Accessible opportunities to comment on planning related matters include those provided on the internet and through such methods as telephone town halls.
- 1.02 Applicable Planning Document - refers to MPO Fiscally Constrained RTPs, TIPs for MPOs in NAAs, CDOT's 10-Year Plan and Four-Year Prioritized Plan in non-MPO areas, ~~CDOT's STIP in non-MPO areas within an NAA~~, and amendments to the MPO RTPs and CDOT's 10-Year Plan and Four-Year Prioritized Plan in non-MPO areas that include the addition of Regionally Significant Projects.
- 1.03 Approved Air Quality Model - the ~~most recent version of the~~ Environmental Protection Agency issued model that quantifies GHG emissions from transportation ~~and is required for transportation conformity analyses per federal regulations~~.
- 1.04 Attainment Area - any geographic region of the United States that meets the national primary or secondary National Ambient Air Quality Standards (NAAQS) for the pollutants as defined in the Clean Air Act (CAA) (Amendments of 1990).
- 1.05 Baseline - estimates of GHG emissions for each of the MPOs, and for the non-MPO areas, prepared using the MPO Models or the Statewide Travel Model. Estimates must include GHG emissions resulting from the existing transportation network and implementation of the most

recently adopted RTP for all MPOs and the 10-Year Plan in non-MPO areas as of the effective date of these Rules.

1.06 Carbon Dioxide Equivalent (CO₂e) - a metric measure used to standard unit for comparing the emissions from various GHG based upon the 100-year global warming potential (GWP). CO₂e is calculated by multiplying the mass amount of emissions (metric tons per year), for each GHG constituent by that gas's GWP, and summing the resultant values to determine CO₂e (metric tons per year). This calculation allows comparison of different greenhouse gases and their relative impact on the environment over different standard time periods.

Commented [MB2]: MMT is a metric measure, but CO₂e is not inherently metric

1.07 Commission - the Transportation Commission of Colorado created by § 43-1-106, C.R.S.

1.08 Congestion Mitigation and Air Quality (CMAQ) - a federally mandated federal funding program established in 23 U.S.C § 149 to improve air quality in Nonattainment and Maintenance Areas for ozone, carbon monoxide, and particulate matter. References related to this program include any successor programs as established by the federal government.

1.09 Corridor - a transportation system that includes all modes and facilities within a described geographic area.

1.10 Corridor Vision - a comprehensive examination of a specific transportation Corridor, which includes a determination of needs and an expression of desired state of the transportation system that includes Transportation Modes and facilities over a planning period.

1.11 Department or CDOT - the Colorado Department of Transportation created by § 43-1-103, C.R.S.

1.12 Disproportionately Impacted Communities - defined in § 24-38.5-302(3), C.R.S. as a community that is in a census block group, as determined in accordance with the most recent United States Decennial Census where the proportion of households that are low income is greater than forty percent (40%), the proportion of households that identify as minority is greater than forty percent (40%), or the proportion of households that are housing cost-burdened is greater than forty percent (40%).

1.13 Division - the Division of Transportation Development within CDOT.

1.14 Division Director - the Director of the Division of Transportation Development.

1.15 Fiscally Constrained - the financial limitation on transportation plans and programs based on the projection of revenues as developed cooperatively with the MPOs and the rural TPRs and adopted by the Commission that are reasonably expected to be available over the long-range transportation planning period and the TIP and STIP programming periods.

1.16 Four-Year Prioritized Plan - a four-year subset of the 10-Year Plan consisting of projects prioritized for near-term delivery and partial or full funding.

1.17 Greenhouse Gas (GHG) - for purposes of these Rules, GHG is defined as the primary transportation greenhouse gases: carbon dioxide, methane, and nitrous oxide.

1.18 Greenhouse Gas (GHG) Reduction Level - the amount of the GHG expressed as CO₂e reduced from the projected Baseline that CDOT and MPOs must attain through transportation planning.

1.19 Greenhouse Gas (GHG) Mitigation Measures - non-Regionally Significant Project strategies implemented by CDOT and MPOs that reduce transportation GHG pollution and help meet the GHG Reduction Levels.

Commented [MB3]: Any agency's GHG measures should be able to count, same as how any regionally significant project (even if locally funded) counts. In addition, better to not use the past tense because almost all the measures are planned measures for future implementation.

- 1.20 Intergovernmental Agreement - an arrangement made between two or more political subdivisions that form associations for the purpose of promoting the interest and welfare of said subdivisions.
- 1.21 Intermodal Facility - a site where goods or people are conveyed from one mode of transportation to another, such as goods from rail to truck or people from passenger vehicle to bus.
- 1.22 Land Use - the type, size, arrangement, and use of parcels of land.
- 1.23 Limited English Proficiency - individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
- 1.24 Long-Range Planning - a reference to a planning period with a minimum 20-year planning horizon.
- 1.25 Maintenance Area - any geographic region of the United States previously designated by the U.S. Environmental Protection Agency (EPA) as a Nonattainment Area pursuant to the Clean Air Act (CAA) Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under § 175A of the CAA, as amended in 1990.
- 1.26 Memorandum of Agreement (MOA) - a written agreement between two or more parties on an intended plan of action.
- 1.27 Metropolitan Planning Agreement (MPA) - a written agreement between the MPO, the State, and the providers of public transportation serving the Metropolitan Planning Area that describes how they will work cooperatively to meet their mutual responsibilities in carrying out the metropolitan planning process.
- 1.28 Metropolitan Planning Area - a geographic area determined by agreement between the MPO for the area and the Governor, in which the metropolitan transportation planning process is carried out pursuant to 23 U.S.C. § 134.
- 1.29 Metropolitan Planning Organization (MPO) - an organization designated by agreement among the units of general purpose local governments and the Governor, charged to develop the RTPs and programs in a Metropolitan Planning Area pursuant to 23 U.S.C. § 134.
- 1.30 Mitigation Action Plan - an element of the GHG Transportation Report that specifies which GHG Mitigation Measures shall be implemented that help achieve the GHG Reduction Levels.
- 1.31 Mobility - the ability to move people, goods, services, and information among various origins and destinations.
- 1.32 MPO Models - one (1) or more of the computer-based models maintained and operated by the MPOs which depict the MPO areas' transportation systems (e.g., roads, transit, etc.) and development patterns (i.e., number and location of households and jobs) for a defined year (i.e., past, present, or forecast) and produce estimates of roadway VMT, delays, operating speeds, transit ridership, and other characteristics of transportation system use.
- 1.33 Multimodal - an integrated approach to transportation that takes into account all modes of travel, such as bicycles and walking, personal mobility devices, buses, transit, rail, aircraft, and motor vehicles.
- 1.34 Multimodal Transportation and Mitigation Options Fund (MMOF) - a program created in the State Treasury pursuant to § 43-4-1003, C.R.S. which funds bicycle, pedestrian, transit and other Multimodal projects as defined in § 43-4-1002(5), C.R.S. and GHG Mitigation projects as defined in § 43-4-1002(4.5), C.R.S.

- 1.35 National Ambient Air Quality Standards (NAAQS) - are those established by the U.S. Environmental Protection Agency for air pollutants considered harmful to public health and environment. These criteria pollutants are: carbon monoxide, lead, nitrogen dioxide, ozone, small particles, and sulfur dioxide.
- 1.36 Nonattainment Area - any geographic region of the United States which has been designated **as nonattainment** by the EPA under section 107 of the CAA for any pollutants for which a NAAQS exists.
- 1.37 Non-Metropolitan Area - a rural geographic area outside a designated Metropolitan Planning Area.
- 1.38 Plan Integration - a comprehensive evaluation of the statewide transportation system that includes all modes, an identification of needs and priorities, and key information from other related CDOT plans.
- 1.39 Planning Partners - local and tribal governments, the rural TPRs and MPOs.
- 1.40 Project Priority Programming Process - the process by which CDOT adheres to 23 U.S.C. § 135 and 23 C.F.R. Part 450 when developing and amending the STIP.
- 1.41 Regional Planning Commission (RPC) - a planning body formed under the provisions of § 30-28-105, C.R.S., and designated under these Rules for the purpose of transportation planning within a rural TPR.
- 1.42 Regionally Significant Project - a transportation project that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network or state transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel. If the MPOs have received approval from the EPA to use a different definition of regionally significant project as defined in 40 C.F.R. § 93.101, the State Interagency Consultation Team will accept the modified definition. **Necessary** specificity for MPO Models or the Statewide Travel Model will be approved by the State Interagency Consultation Team.
- 1.43 Regional Transportation Plan (RTP) - a long-range plan designed to address the future transportation needs for a TPR including, but not limited to, Fiscally Constrained or anticipated funding, priorities, and implementation plans, pursuant to, but not limited to, § 43-1-1103, C.R.S. and 23 C.F.R. Part 450. All rural and urban TPRs in the state produce RTPs.
- 1.44 State Interagency Consultation Team - consists of the Division Director or the Division Director's designee, the Colorado Department of Public Health and Environment (CDPHE) Director of Air Pollution Control Division or the Director's designee, and the Director of each MPO or their designee.
- 1.45 State Transportation System - refers to all state-owned, operated, and maintained transportation facilities in Colorado, including, but not limited to, interstate highways, other highways, and aviation, bicycle and pedestrian, transit, and rail facilities.
- 1.46 Statewide Transportation Advisory Committee (STAC) - the committee created by § 43-1-1104, C.R.S., comprising one representative from each TPR and one representative from each tribal government to review and comment on RTPs, amendments, and updates, and to advise both the Department and the Commission on the needs of the transportation system in Colorado.

Commented [MB4]: EPA also designates areas as attainment, maintenance, or unclassifiable.

Commented [MB5]: Recommend clarifying if this applies to all areas or just those without an EPA-approved definition.

- 1.47 Statewide Transportation Improvement Program (STIP) - a Fiscally Constrained, multi-year, statewide, Multimodal program of transportation projects which is consistent with the Statewide Transportation Plan and planning processes, with Metropolitan Planning Area plans, Transportation Improvement Programs and processes, and which is developed pursuant to 23 U.S.C. § 135.
- 1.48 Statewide Travel Model - the computer-based model maintained and operated by CDOT which depicts the state's transportation system (roads, transit, etc.) and development scale and pattern (number and location of households, number and location of firms/jobs) for a selected year (past, present, or forecast) and produces estimates of roadway VMT and speed, transit, ridership, and other characteristics of transportation system use.
- 1.49 Statewide Transportation Plan - the long-range, comprehensive, Multimodal statewide transportation plan covering a period of no less than 20 years from time of adoption, developed through the statewide transportation planning process described in these Rules and 23 U.S.C. § 135, and adopted by the Commission pursuant to § 43-1-1103, C.R.S.
- 1.50 Surface Transportation Block Grant (STBG) - a flexible federal funding source established under 23 U.S.C. § 133 for state and local transportation needs. Funds are expended in the areas of the State based on population. References related to this program include any successor programs established by the federal government.
- 1.51 System Continuity - includes, but is not limited to, appropriate intermodal connections, integration with state modal plans, and coordination with neighboring RTPs, and, to the extent practicable, other neighboring states' transportation plans.
- 1.52 Traditionally Underserved - refers to groups such as seniors, persons with disabilities, low-income households, minorities, and student populations, which may face difficulties accessing transportation systems, employment, services, and other amenities.
- 1.53 Transit and Rail Advisory Committee (TRAC) - an advisory committee created specifically to advise the Executive Director, the Commission, and the Division of Transit and Rail on transit and rail-related activities.
- 1.54 Transportation Commonality - the basis on which TPRs are established including, but not limited to: Transportation Commission Districts, the Department's Engineering Regions, Travelsheds, Watersheds, geographic unity, existing Intergovernmental Agreements, and socioeconomic unity.
- 1.55 Transportation Improvement Program (TIP) - a staged, Fiscally Constrained, multi-year, Multimodal program of transportation projects developed and adopted by MPOs, and approved by the Governor, which is consistent with an MPO's RTP and which is developed pursuant to 23 U.S.C. § 134.
- 1.56 Transportation Mode - a particular form of travel including, but not limited to, bus, motor vehicle, rail, transit, aircraft, bicycle, pedestrian travel, or personal mobility devices.
- 1.57 Transportation Planning and Programming Process - all collaborative planning-related activities including the development of regional and Statewide Transportation Plans, the Department's Project Priority Programming Process, and development of the TIPs and STIP.
- 1.58 Transportation Planning Region (TPR) - a geographically designated area of the state, defined by section 2.00 of these Rules in consideration of the criteria for Transportation Commonality, and for which a regional transportation plan is developed pursuant to the provisions of § 43-1-1102 and 1103, C.R.S. and 23 U.S.C. § 134. The term TPR is inclusive of these types: non-MPO TPRs, MPO TPRs, and TPRs with both MPO and non-MPO areas.

- 1.59 Transportation Systems Planning - provides the basis for identifying current and future deficiencies on the state highway system and outlines strategies to address those deficiencies and make improvements to meet Department goals.
- 1.60 Travelshed - the region or area generally served by a major transportation facility, system, or Corridor.
- 1.61 Tribal Transportation Improvement Program (TTIP) - a multi-year Fiscally Constrained list of proposed transportation projects developed by a tribe from the tribal priority list or tribal long-range transportation plan, and which is developed pursuant to 25 C.F.R. Part 170. The TTIP is incorporated into the STIP without modification.
- 1.62 Urbanized Area - an area with a population of 50,000 or more designated by the Bureau of the Census.
- 1.63 Vehicle Miles Traveled (VMT) - the traffic volume of a roadway segment or system of roadway segments multiplied by the length of the roadway segment or system.
- 1.64 Watershed - a land area that drains to a common waterway, such as a stream, lake, estuary, wetland, or ultimately the ocean.
- 1.65 10-Year Plan - a vision for Colorado's transportation system that includes a specific list of projects categorized across priority areas as identified in the Statewide Transportation Plan.

2.00 Transportation Planning Regions (TPR).

- 2.01 Transportation Planning Region Boundaries. ~~Transportation Planning Region~~TPRs are geographically designated areas of the state with similar transportation needs that are determined by considering transportation commonalities. Boundaries are hereby established as follows:
 - 2.01.1 The Pikes Peak Area ~~Transportation Planning Region~~TPR comprises the Pikes Peak Area Council of Governments' metropolitan area within El Paso and Teller counties.
 - 2.01.2 The Greater Denver ~~Transportation Planning Region~~TPR, which includes the Denver Regional Council of Governments' planning area, comprises the counties of Adams, Arapahoe, Boulder, Broomfield, Clear Creek, Denver, Douglas, Gilpin, Jefferson, and parts of Weld.
 - 2.01.3 The North Front Range ~~Transportation Planning Region~~TPR comprises the North Front Range Transportation and Air Quality Planning Council's metropolitan area within Larimer and Weld counties.
 - 2.01.4 The Pueblo Area ~~Transportation Planning Region~~TPR comprises Pueblo County, including the Pueblo Area Council of Governments' metropolitan area.
 - 2.01.5 The Grand Valley ~~Transportation Planning Region~~TPR comprises Mesa County, including the Grand Valley Metropolitan Planning Organization's metropolitan area.
 - 2.01.6 The Eastern ~~Transportation Planning Region~~TPR comprises Cheyenne, Elbert, Kit Carson, Lincoln, Logan, Phillips, Sedgwick, Washington, and Yuma counties.
 - 2.01.7 The Southeast ~~Transportation Planning Region~~TPR comprises Baca, Bent, Crowley, Kiowa, Otero, and Prowers counties.

- 2.01.8 The San Luis Valley ~~Transportation Planning Region~~TPR comprises Alamosa, Chaffee, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties.
- 2.01.9 The Gunnison Valley ~~Transportation Planning Region~~TPR comprises Delta, Gunnison, Hinsdale, Montrose, Ouray, and San Miguel counties.
- 2.01.10 The Southwest ~~Transportation Planning Region~~TPR comprises Archuleta, Dolores, La Plata, Montezuma, and San Juan counties, including the Ute Mountain Ute and Southern Ute Indian Reservations.
- 2.01.11 The Intermountain ~~Transportation Planning Region~~TPR comprises Eagle, Garfield, Lake, Pitkin, and Summit counties.
- 2.01.12 The Northwest ~~Transportation Planning Region~~TPR comprises Grand, Jackson, Moffat, Rio Blanco, and Routt counties.
- 2.01.13 The Upper Front Range ~~Transportation Planning Region~~TPR comprises Morgan County, and the parts of Larimer and Weld counties, that are outside both the North Front Range and the Greater Denver (metropolitan) TPRs.
- 2.01.14 The Central Front Range ~~Transportation Planning Region~~TPR comprises Custer, El Paso, Fremont, Park, and Teller counties, excluding the Pikes Peak Area Council of Governments' metropolitan area.
- 2.01.15 The South Central ~~Transportation Planning Region~~TPR comprises Huerfano, and Las Animas Counties.

2.02 Boundary Revision Process.

- 2.02.1 TPR boundaries, excluding any MPO-related boundaries, will be reviewed by the Commission at the beginning of each regional and statewide transportation planning process. The Department will notify counties, municipalities, MPOs, Indian tribal governments, and RPCs for the TPRs of the boundary review revision requests. MPO boundary review shall be conducted pursuant to 23 U.S.C. § 134 and 23 C.F.R. Part 450 Subpart B and any changes shall be provided to the Department to update the Rules. All boundary revision requests shall be sent to the Division Director, and shall include:
 - 2.02.1.1 A geographical description of the proposed boundary change.
 - 2.02.1.2 A statement of justification for the change considering transportation commonalities.
 - 2.02.1.3 A copy of the resolution stating the concurrence of the affected ~~Regional Planning Commission~~RPC.
 - 2.02.1.4 The name, title, mailing address, telephone number, fax number and electronic mail address (if available) of the contact person for the requesting party or parties.
- 2.02.2 The Department will assess and STAC shall review and comment (as set forth in these Rules) on all ~~nonNon-metropolitan Metropolitan area-Area~~ TPR boundary revision requests based on transportation commonalities and make a recommendation to the Commission concerning such requests. The Department will notify the Commission of MPO boundary changes. The Commission may initiate a rule-making proceeding under the ~~State-Colorado~~ Administrative Procedure Act, § 24-4-103, C.R.S. to consider a

boundary revision request. Requests received for a MPO or non-metropolitan TPR boundary revision outside of the regularly scheduled boundary review cycle must include the requirements identified above.

- 2.02.3 In the event that the Commission approves a change to the boundary of a TPR that has a ~~Regional Planning Commission~~RPC, the RPC in each affected TPR shall notify the Department of any changes to the ~~intergovernmental~~Intergovernmental agreement Agreement governing the RPC as specified in these Rules.

2.03 Transportation Planning Coordination with MPOs.

- 2.03.1 The Department and the MPOs shall coordinate activities related to the development of ~~Regional Transportation Plan~~RTPs, the Statewide Transportation Plan, TIPs, and the STIP in conformance with 23 U.S.C. § 134 and 135 and § 43-1-1101 and § 43-1-1103, C.R.S. The Department shall work with the MPOs to resolve issues arising during the planning process.

2.04 Transportation Planning Coordination with Non-MPO RPCs.

- 2.04.1 The Department and RPCs shall work together in developing ~~Regional Transportation Plan~~RTPs and in planning future transportation activities. The Department shall consult with all RPCs on development of the Statewide Transportation Plan; incorporation of RTPs into the Statewide Transportation Plan; and the inclusion of projects into the STIP that are consistent with the RTPs. In addition, the Department shall work with the RPCs to resolve issues arising during the planning process.

2.05 Transportation Planning Coordination among RPCs.

- 2.05.1 If transportation improvements cross TPR boundaries or significantly impact another TPR, the RPC shall consult with all the affected RPCs involved when developing the ~~regional transportation plan~~RTP. In general, RPC planning officials shall work with all ~~planning~~Planning partnersPartners affected by transportation activities when planning future transportation activities.

2.06 Transportation Planning Coordination with the Southern Ute and the Ute Mountain Ute Tribal Governments.

- 2.06.1 Regional transportation planning within the Southwest TPR shall be coordinated with the transportation planning activities of the Southern Ute and the Ute Mountain Ute tribal governments. The long-range transportation plans for the tribal areas shall be integrated in the Statewide Transportation Plan and the ~~Regional Transportation Plan~~RTP for this TPR. The TTIP is incorporated into the STIP without modification.

3.00 Statewide Transportation Advisory Committee (STAC).

- 3.01 Duties of the ~~Statewide Transportation Advisory Committee~~(STAC). Pursuant to § 43-1-1104 C.R.S. the duties of the STAC shall be to meet as necessary and provide advice to both the Department and the Commission on the needs of the transportation system in Colorado including, but not limited to: budgets, ~~transportation improvement programs~~TIPs of the ~~metropolitan planning organizations~~MPOs, the ~~Statewide Transportation Improvement Program~~STIP, transportation plans, and state transportation policies.

The STAC shall review and provide to both the Department and the Commission comments on:

- 3.01.1 All ~~Regional Transportation Plan~~RTPs, amendments, and updates as described in these Rules.
- 3.01.2 Transportation related communication and/or conflicts which arise between RPCs or between the Department and a RPC.
- 3.01.3 The integration and consolidation of RTPs into the Statewide Transportation Plan.
- 3.01.4 Colorado's ~~mobility~~Mobility requirements to move people, goods, services, and information by furnishing regional perspectives on transportation problems requiring interregional and/or statewide solutions.
- 3.01.5 Improvements to modal choice, linkages between and among modes, and transportation system balance and ~~system~~System continuityContinuity.
- 3.01.6 Proposed TPR boundary revisions.
- 3.02 Notification of Membership
 - 3.02.1 Each RPC and tribal government shall select its representative to the STAC pursuant to § 43-1-1104(1), C.R.S. The Ute Mountain Ute Tribal Council and the Southern Ute Indian Tribal Council each appoint one representative to the STAC. Each TPR and tribal government is also entitled to name an alternative representative who would serve as a proxy in the event their designated representative is unable to attend a STAC meeting and would be included by the Department in distributions of all STAC correspondence and notifications. The Division Director shall be notified in writing of the name, title, mailing address, telephone number, fax number and electronic mail address (if available) of the STAC representative and alternative representative from each TPR and tribal government within thirty (30) days of selection.
- 3.03 Administration of ~~Statewide Transportation Advisory Committee~~STAC
 - 3.03.1 STAC recommendations on Regional and Statewide Transportation Plans, amendments, and updates shall be documented in the STAC meeting minutes, and will be considered by the Department and Commission throughout the statewide transportation planning process.
 - 3.03.2 The STAC shall establish procedures to govern its affairs in the performance of its advisory capacity, including, but not limited to, the appointment of a chairperson and the length of the chairperson's term, meeting times, and locations.
 - 3.03.3 The Division Director will provide support to the STAC, including, but not limited to:
 - 3.03.3.1 Notification of STAC members and alternates of meeting dates.
 - 3.03.3.2 Preparation and distribution of STAC meeting agendas, supporting materials, and minutes.
 - 3.03.3.3 Allocation of Department staff support for STAC-related activities.
- 4.00 Development of Regional and Statewide Transportation Plans.**
 - 4.01 ~~Regional Planning Commission~~RPCs, MPOs, and the Department shall comply with all applicable provisions of 23 U.S.C. § 134 and § 135, 23 C.F.R. Part 450, and § 43-1-1103, C.R.S. and all

applicable provisions of Commission policies and guidance documents in development of regional and statewide transportation plans, respectively.

4.02 Public Participation

4.02.1 The Department, in coordination with the RPCs of the rural TPRs, shall provide early and continuous opportunity for public participation in the transportation planning process. The process shall be proactive and provide timely information, adequate public notice, reasonable public access, and opportunities for public review and comment at key decision points in the process. The objectives of public participation in the transportation planning process include: providing a mechanism for public perspectives, needs, and ideas to be considered in the planning process; developing the public's understanding of the problems and opportunities facing the transportation system; demonstrating explicit consideration and response to public input through a variety of tools and techniques; and developing consensus on plans. The Department shall develop a documented public participation process pursuant to 23 C.F.R. Part 450.

4.02.2 Statewide Plans and Programs. Pursuant to 23 C.F.R. Part 450 Subpart B, the Department is responsible, in cooperation with the RPCs and MPOs, for carrying out public participation for developing, amending, and updating the ~~statewide~~ Statewide transportation-Transportation planPlan, the ~~Statewide Transportation Improvement Program~~ (STIP), and other statewide transportation planning activities.

4.02.3 MPO Plans and Programs. Pursuant to 23 C.F.R. Part 450 Subpart C, the MPOs are responsible for carrying out public participation for the development of ~~regional transportation plan~~ RTPs, ~~transportation improvement programs~~ TIPs and other related regional transportation planning activities for their respective ~~metropolitan~~ Metropolitan planning-Planning areasAreas. Public participation activities carried out in a metropolitan area in response to metropolitan planning requirements shall by agreement of the Department and the MPO, satisfy the requirements of this subsection.

4.02.4 Non-MPO TPR Plans and Programs. ~~Regional Planning Commission~~ RPCs for non-MPO TPRs are responsible for public participation related to regional planning activities in that TPR, in cooperation with the Department. Specific areas of cooperation shall be determined by agreement between the ~~Regional Planning Commission~~ RPC and the Department.

4.02.5 Public Participation Activities. Public participation activities at both the rural TPR and statewide level shall include, at a minimum:

4.02.5.1 Establishing and maintaining for the geographic area of responsibility a list of all known parties interested in transportation planning including, but not limited to: elected officials; municipal and county planning staffs; affected public agencies; local, state, and federal agencies eligible for federal and state transportation funds; local representatives of public transportation agency employees and users; freight shippers and providers of freight transportation services; public and private transportation providers; representatives of users of transit, bicycling and pedestrian, aviation, and train facilities; private industry; environmental and other interest groups; Indian tribal governments and the U.S. Secretary of the Interior when tribal lands are involved; and representatives of persons or groups that may be underserved by existing transportation systems, such as minority, low-income, seniors, persons with disabilities, and those with ~~limited~~ Limited English ~~proficiency~~ Proficiency; and members of the general public expressing such interest in the transportation planning process.

- 4.02.5.2 Providing reasonable notice and opportunity to comment through mailing lists and other various communication methods on upcoming transportation planning-related activities and meetings.
- 4.02.5.3 Utilizing reasonably available internet or traditional media opportunities, including minority and diverse media, to provide timely notices of planning-related activities and meetings to members of the public, including ~~LEP-Limited English Proficiency~~ individuals, and others who may require reasonable accommodations. Methods that will be used to the maximum extent practicable for public participation could include, but not be limited to, use of the internet; social media, news media, such as newspapers, radio, or television, mailings and notices, including electronic mail and online newsletters.
- 4.02.5.4 Seeking out those persons or groups ~~traditionally-Traditionally underserved-Underserved~~ by existing transportation systems including, but not limited to, seniors, persons with disabilities, minority groups, low-income, and those with ~~limited-Limited English proficiency~~Proficiency, for the purposes of exchanging information, increasing their involvement, and considering their transportation needs in the transportation planning process. Pursuant to § 43-1-601, C.R.S., the Department shall prepare a statewide survey identifying the transportation needs of seniors and of persons with disabilities.
- 4.02.5.5 Consulting, as appropriate, with ~~Regional Planning Commission~~RPCs, and federal, state, local, and tribal agencies responsible for land use management, natural resources, environmental protection, conservation and historic preservation concerning the development of long-range transportation plans.
- 4.02.5.6 Providing reasonable public access to, and appropriate opportunities for public review and comment on criteria, standards, and other planning-related information. Reasonable public access includes, but is not limited to, ~~LEP-Limited English Proficiency~~ services and access to ADA-compliant facilities, as well as to the internet.
- 4.02.5.7 Where feasible, scheduling the development of regional and statewide plans so that the release of the draft plans may be coordinated to provide for the opportunity for joint public outreach.
- 4.02.5.8 Documentation of Responses to Significant Issues. ~~Regional Planning Commissions~~RPCs and the Department shall respond in writing to all significant issues raised during the review and comment period on transportation plans, and make these responses available to the public.
- 4.02.5.9 Review of the Public Involvement Process. All interested parties and the Department shall periodically review the effectiveness of the Department's public involvement process to ensure that the process provides full and open access to all members of the public. When necessary, the process will be revised and allow time for public review and comment per 23 C.F.R. Part 450.
- 4.03 Transportation Systems Planning. ~~Regional Planning Commission~~RPCs, and the Department, shall use an integrated ~~multimodal-Multimodal transportation-Transportation systems-Systems planning-Planning~~ approach in developing and updating the long-range ~~Regional Transportation Plans~~RTPs and the long-range Statewide Transportation Plan for a minimum 20-year forecasting

period. ~~Regional Planning Commission~~RPCs shall have flexibility in the methods selected for ~~transportation-Transportation systems~~ ~~Systems planning-Planning~~ based on the complexity of transportation problems and available resources within the TPR. The Department will provide guidance and assistance to the ~~Regional Planning Commission~~RPCs regarding the selection of appropriate methods.

4.03.1 Transportation ~~systems-Systems~~ ~~planning-Planning~~ by ~~Regional Planning Commission~~RPCs and the Department shall consider the results of any related studies that have been completed. ~~Regional Planning Commission~~RPCs and the Department may also identify any ~~corridor~~Corridor(s) or sub-area(s) where an environmental study or assessment may need to be performed in the future.

4.03.2 Transportation ~~systems-Systems~~ ~~planning-Planning~~ by ~~Regional Planning Commission~~RPCs shall consider ~~corridor vision~~needs and desired state of the transportation system including existing and future land use and infrastructure, major activity centers such as industrial, commercial and recreation areas, economic development, environmental protection, and modal choices.

4.03.3 Transportation ~~systems-Systems~~ ~~planning-Planning~~ by ~~Regional Planning Commission~~RPCs shall include operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and ~~mobility~~Mobility of people goods, and services.

4.03.4 Transportation ~~systems-Systems~~ ~~planning-Planning~~ by the Department should include capital, operations, maintenance and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient and effective use of the ~~state-State~~ ~~transportation-Transportation system~~System.

4.03.5 Transportation ~~systems-Systems~~ ~~P~~lanning by the Department shall consider and integrate all modes into the Statewide Transportation Plan and include coordination with Department modal plans and modal committees, such as the ~~Transit and Rail Advisory Committee~~(TRAC).

4.03.6 Transportation Systems Planning by the Department shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in 23 U.S.C. § 150 (FAST Act, P.L. 114-94). Performance targets that the Department establishes to address the performance measures described in 23 U.S.C. § 150, where applicable, are to be used to track progress towards attainment of critical outcomes for the state. The state shall consider the performance measures and targets when developing policies, programs, and investment priorities reflected in the Statewide Transportation Plan and STIP.

4.04 Regional Transportation Plans (RTP). Long-range ~~regional transportation plans~~RTPs shall be developed, in accordance with federal (23 U.S.C. § 134 and § 135) and state (§ 43-1-1103 and § 43-1-1104, C.R.S.) law and implementing regulations. Department selection of performance targets that address the performance measures shall be coordinated with the relevant MPOs to ensure consistency, to the maximum extent practicable.

4.04.1 Content of ~~Regional Transportation Plan~~RTPs. Each RTP shall include, at a minimum, the following elements:

4.04.1.1 Transportation system facility and service requirements within the MPO TPR over a minimum 20-year planning period necessary to meet expected demand, and the anticipated capital, maintenance and operating cost for these facilities and services.

- 4.04.1.2 State and federal transportation system planning factors to be considered by ~~Regional Planning Commission~~RPCs and the Department during their respective ~~transportation-Transportation systems-Systems planning-Planning~~ shall include, at a minimum, the factors described in § 43-1-1103 (5), C.R.S., and in 23 U.S.C. § 134 and § 135.
- 4.04.1.3 Identification and discussion of potential environmental mitigation measures, ~~corridor-Corridor~~ studies, or ~~corridor-Corridor visions~~Visions, including a discussion of impacts to minority and low-income communities.
- 4.04.1.4 A discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.
- 4.04.1.5 For rural RTPs, the integrated performance-based ~~multimodal~~Multimodal transportation plan based on revenues reasonably expected to be available over the minimum 20-year planning period. For metropolitan RTPs, a ~~fiscally-Fiscally constrained-Constrained~~ financial plan.
- 4.04.1.6 Identification of reasonably expected financial resources developed cooperatively among the Department, MPOs, and rural TPRs for ~~longLong-range-Range planning-Planning~~ purposes, and results expected to be achieved based on regional priorities.
- 4.04.1.7 Documentation of the public notification and public participation process pursuant to these Rules.
- 4.04.1.8 A resolution of adoption by the responsible ~~Metropolitan Planning Organization~~MPO or the ~~Regional Planning Commission~~RPC.
- 4.04.2 Products and reviews
- 4.04.2.1 Draft Plan. ~~Transportation Planning RegionTPRs~~ shall provide a draft of the RTP to the Department through the Division of ~~Transportation Development~~.
- 4.04.2.2 Draft Plan Review. Upon receipt of the draft RTPs, the Department will initiate its review and schedule the STAC review (pursuant to these Rules). The Department will provide its comments and STAC comments to the ~~Transportation Planning RegionTPR~~ within a minimum of 30 days of receiving the draft RTP. ~~Regional transportation planRTPs~~ in metropolitan areas completed pursuant to the schedule identified in 23 C.F.R. § 450.322 shall be subject to the provisions of this section prior to being submitted to the Department for consideration as an amendment to the ~~statewide-Statewide transportation-Transportation planPlan~~.
- 4.04.2.3 Final Plan. ~~Transportation Planning RegionTPRs~~ shall provide the final RTP to the Department through the Division of ~~Transportation Development~~.
- 4.04.2.4 Final Plan Review. Upon receipt of the final RTP, the Department will initiate its review and schedule the STAC review (pursuant to these

Rules) of the final RTPs to determine if the plans incorporate the elements required by the Rules. If the Department determines that a final RTP is not complete, including if the final RTP does not incorporate the elements required by these Rules, then the Department will not integrate that RTP into the statewide plan until the ~~Transportation Planning Region~~TPR has sufficiently revised that RTP, as determined by the Department with advice from the STAC. The Department will provide its comments and STAC comments to the ~~Transportation Planning Region~~TPR within a minimum of 30 days of receiving the final RTP. ~~Transportation Planning Region~~TPRs shall submit any RTP revisions based on comments from the Department and STAC review within 30 days of the Department's provision of such comments. ~~Regional transportation plans~~RTPs in metropolitan areas completed pursuant to the schedule identified in 23 C.F.R. § 450.322 shall be subject to the provisions of this section prior to being submitted to the Department for consideration as an amendment to the ~~statewide~~Statewide ~~transportation~~Transportation planPlan.

- 4.05 Maintenance and Nonattainment Areas. Each RTP, or RTP amendment, shall include a section that:
- 4.05.1 Identifies any area within the TPR that is designated as a ~~maintenance~~Maintenance or ~~nonattainment~~Nonattainment areaArea.
 - 4.05.2 Addresses, in either a qualitative or quantitative manner, whether transportation related emissions associated with the pollutant of concern in the TPR are expected to increase over the ~~long~~Long-range Range planning-Planning period and, if so, what effect that increase might have in causing a ~~maintenance~~Maintenance areaArea for an NAAQS pollutant to become a ~~nonattainment~~Nonattainment areaArea, or a ~~non-attainment~~Nonattainment areaArea to exceed its emission budget in the approved State Implementation Plan.
 - 4.05.3 If transportation related emissions associated with the pollutant are expected to increase over the ~~long~~Long-range Range planning-Planning period, identifies which programs or measures are included in the RTP to decrease the likelihood of that area becoming a ~~nonattainment~~Nonattainment areaArea for the pollutant of concern.
- 4.06 Statewide Transportation Plan. The ~~Regional Transportation Plans~~RTPs submitted by the ~~Regional Planning Commissions~~RPCs shall, along with direction provided through Commission policies and guidance, form the basis for developing and amending the Statewide Transportation Plan. The Statewide Transportation Plan shall cover a minimum 20-year planning period at the time of adoption and shall guide the development and implementation of a performance-based ~~multimodal~~Multimodal transportation system for the State.
- 4.06.1 The Statewide Transportation Plan shall:
- 4.06.1.1 Integrate and consolidate the RTPs and the Department's systems planning, pursuant to these Rules, into a long-range 20-year ~~multimodal~~Multimodal transportation plan that presents a clear, concise path for future transportation in Colorado.
 - 4.06.1.2 Include the long-term transportation concerns of the Southern Ute Indian Tribe and the Ute Mountain Ute Tribe in the development of the Statewide Transportation Plan.

- 4.06.1.3 Coordinate with other state and federal agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.
- 4.06.1.4 Include a discussion of potential environmental mitigation activities and potential areas to carry out these activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan developed in consultation with federal, state, and tribal wildlife, land management and regulatory agencies.
- 4.06.1.5 Include a comparison of transportation plans to state and tribal conservation plans or maps and to inventories of natural or historical resources.
- 4.06.1.6 Provide for overall ~~multimodal~~ Multimodal transportation system management on a statewide basis.
- 4.06.1.7 The Statewide Transportation Plan shall be coordinated with metropolitan transportation plans pursuant to 23 C.F.R. Part 450, § 43-1-1103 and § 43-1-1105, C.R.S. Department selection of performance targets shall be coordinated with the MPOs to ensure consistency, to the maximum extent practicable.

4.06.1.8 Include an analysis of how the Statewide Transportation Plan is aligned with Colorado's climate goals and helps reduce, prevent, and mitigate GHG pollution throughout the State.

4.06.1.9 Includes the 10-Year Plan as an appendix.

4.06.2 Content of the Statewide Transportation Plan. At a minimum, the Statewide Transportation Plan shall include priorities as identified in the RTPs, as identified in these Rules and pursuant to federal planning laws and regulations. The Statewide Transportation Plan shall be submitted to the ~~Colorado Transportation~~ Commission for its consideration and approval.

4.06.3 Review and Adoption of the Statewide Transportation Plan.

4.06.3.1 The Department will submit a draft Statewide Transportation Plan to the Commission, the STAC, and all interested parties for review and comment. The review and comment period will be conducted for a minimum of 30 days. The Statewide Transportation Plan and appendices ~~The publication~~ will be available in physical form upon request at public facilities, such as at the Department headquarters and region offices, state depository libraries, county offices, TPR offices, Colorado Division offices of the Federal Highway Administration and Federal Transit Administration, and made available on the internet.

4.06.3.2 The Department will submit the final Statewide Transportation Plan to the ~~Colorado Transportation~~ Commission for adoption.

5.00 Updates to Regional and Statewide Transportation Plans.

5.01 Plan Update Process. The updates of ~~Regional Transportation Plan~~ RTPs and the Statewide Transportation Plan shall be completed on a periodic basis through the same process governing development of these plans pursuant to these Rules. The update cycle shall comply with federal

and state law and be determined in consultation with the ~~Transportation~~ Commission, the Department, the STAC and the MPOs so that the respective update cycles will coincide.

- 5.02 Notice by Department of Plan Update Cycle. The Department will notify ~~Regional Planning Commission~~RPCs and the MPOs of the initiation of each plan update cycle, and the schedule for completion.

6.00 Amendments to the Regional and Statewide Transportation Plans.

6.01 Amendment Process

6.01.1 The process to consider amendments to ~~Regional Transportation Plan~~RTPs shall be carried out by rural RPCs and the MPOs. The amendment review process for ~~Regional Transportation Plan~~RTPs shall include an evaluation, review, and approval by the respective RPC or MPO.

6.01.2 The process to consider amendments to the Statewide Transportation Plan shall be carried out by the Department, either in considering a proposed amendment to the Statewide Transportation Plan from a requesting RPC or MPO or on its own initiative.

6.01.3 The process to consider amendments to the 10-Year Plan shall be carried out by CDOT in coordination with the rural RPCs and the MPOs.

7.00 Transportation Improvement Programs (TIPs) and Statewide Transportation Improvement Program (STIP).

- 7.01 TIP development shall occur in accordance with 23 C.F.R. Part 450, Subpart C. The Department will develop the STIP in accordance with 23 C.F.R. Part 450, Subpart B.

- 7.02 The Department will work with its ~~planning~~Planning partnersPartners to coordinate a schedule for development and adoption of TIPs and the STIP.

- 7.03 A TIP for an MPO that is in a ~~non-attainment~~Nonattainment or Maintenance Area must first receive a conformity determination by FHWA and FTA before inclusion in the STIP pursuant to 23 C.F.R. Part 450.

- 7.04 MPO TIPs and Colorado's STIP must be ~~fiscally~~Fiscally constrainedConstrained. Under 23 C.F.R. Part 450, each project or project phase included in an MPO TIP shall be consistent with an approved metropolitan RTP, and each project or project phase included in the STIP shall be consistent with the long-range ~~statewide~~Statewide transportationTransportation planPlan. MPO TIPs shall be included in the STIP either by reference or without change upon approval by the MPOs and the Governor.

8.00 GHG Emission Requirements

8.01 Establishment of Regional GHG Transportation Planning Reduction Levels

8.01.1 The GHG emission reduction levels within Table 1 apply to MPOs and the Non-MPO area within the state of Colorado as of the effective date of these Rules. Baseline valuesprojections are specific to each MPO and CDOT area and represent estimates of GHG emissions resulting from the existing transportation network and implementation of the most recently adopted RTP for all MPOs and the 10-Year Plan in non-MPO areas as of the effective date of these Rules. Table 2 reflects the difference in The Baseline levelsprojections from year to year assuming account for estimates of population and employment growth as provided by the state demographer and assume a rapid growth in

electric vehicles across the State (940,000 light duty electric vehicles in 2030, 3.38 million in 2040 and a total of 97% of all light duty vehicles in 2050). Values in both tables include estimates of population and employment growth as provided by the state demographer.

8.01.2 Regional GHG Transportation Planning Reduction Levels

Table 1: GHG Transportation Planning Reduction Levels in MMT of CO₂e

Regional Areas	2025 Baseline Projections (MMT)	2025 Reduction Level (MMT)	2030 Baseline Projections (MMT)	2030 Reduction Level (MMT)	2040 Baseline Projections (MMT)	2040 Reduction Level (MMT)	2050 Baseline Projections (MMT)	2050 Reduction Level (MMT)
DRCOG	14.9	0.27	11.8	0.82	10.9	0.63	12.8	0.37
NFRMPO	2.3	0.04	1.8	0.12	1.9	0.11	2.2	0.07
PPACG	2.7	N/A	2.2	0.15	2.0	0.12	2.3	0.07
GVMPO	0.38	N/A	0.30	0.02	0.30	0.02	0.36	0.01
PACOG	0.50	N/A	0.40	0.03	0.30	0.02	0.4	0.01
CDOT/Non-MPO	6.7	0.12	5.3	0.37	5.2	0.30	6.1	0.18
TOTAL	27.4	0.5	21.8	1.5	20.6	1.2	24.2	0.7

Commented [MB6]: For some of the compliance years, the TOTAL line at the bottom does not match the sum of the regional areas. The same number of significant digits should be used for all baselines and reduction levels.

8.01.3 Baseline Emissions Due to Projected Number of Light Duty Electric Vehicles
Process for Reviewing and Revising GHG Transportation Planning Reduction Levels – At least every four years, the State Interagency Consultation Team shall conduct a feasibility review of the GHG Reduction Levels based on current conditions and forecasts. At any time, an MPO, CDOT, or the Commission may request the State Interagency Consultation Team conduct a feasibility review of the GHG Reduction Levels. The State Interagency Consultation Team shall determine through consultation if a submitted request will be fulfilled or denied. Upon completing a feasibility review, the State Interagency Consultation Team shall submit a report to the Commission identifying the findings of the feasibility review and a recommendation on whether the GHG Reduction Levels should be revised. The Commission shall determine by resolution if a rulemaking should commence to allow for the potential revision of the GHG Reduction Levels.

Table 2: Baseline Emissions Due to Projected Number of Light Duty Electric Vehicles

	2025 Projections (MMT)	2030 Projections (MMT)	2040 Projections (MMT)	2050 Projections (MMT)
TOTAL	27.0	20.0	14.0	8.9

Commented [MB7]: There is no regulatory purpose for this table. If a regulatory purpose is not provided, it should be removed from the rule. Potential regulatory purpose: Adding in the EV assumption for each year and stating if the EV assumption changes, then the reduction levels in the rule should be revisited to determine if they are still feasible.

8.02 Process for Determining Compliance

8.02.1 Analysis Requirements When Adopting or Amending an Applicable Planning Document - Each MPO and CDOT shall conduct a GHG emissions analysis using MPO Models or the Statewide Travel Model, and the Approved Air Quality Model, to estimate total CO₂e emissions. Such analysis shall include the existing transportation network and implementation of Regionally Significant Projects. The emissions analysis must estimate total CO₂e emissions in million metric tons (MMT) for each compliance year in Table 1, as long as the compliance year is not in the past and compare these emissions to the Baseline specified in Table 1. This provision shall not apply to MPO TIP amendments.

Commented [MB8]: The comparison to Table 1 should occur using the GHG Emissions Analysis AND the GHG mitigation measures, not just the GHG Emissions analysis.

8.02.2 Agreements on Modeling Assumptions and Execution of Modeling Requirements. Prior to the adoption of the next RTP for any MPO, CDOT, CDPHE, and each MPO shall enter into an Intergovernmental Agreement which outlines CDOT, CDPHE, and MPO responsibilities for development and execution of MPO Models or the Statewide Travel Model, and Approved Air Quality Model.

Commented [MB9]: CDOT should also have an IGA required prior to the next 10-year plan

8.02.3 The State Interagency Consultation Team shall meet as needed to conduct and consider requests for feasibility reviews of the GHG Reduction Levels and to address any questions on the classification of projects as Regionally Significant, modeling assumptions, and projects that reduce GHG emissions.

8.02.3 By April 1, 2022, CDOT shall establish an ongoing administrative process, through a public process and in consultation with MPOs, for selecting, measuring, confirming, and verifying defining GHG Mitigation Measures and measuring their impact on GHG emissions and co-benefits, so that CDOT and MPOs may incorporate one or more GHG Mitigation Measures into each of their plans in order to reach to assist in meeting the Regional GHG Planning Reduction Levels in Table 1. Such a process shall include, but not be limited to, determining the relative impacts of GHG Mitigation Measures, measuring and prioritizing localized impacts to communities, and prioritizing benefits to Disproportionately Impacted Communities in particular, and identifying a method for grouping GHG Mitigation Measures that are not considered to be of appropriate scale for individual identification. The mitigation credit awarded to a specific solution shall consider both aggregate and community impact.

Commented [MB10]: Unclear what these terms mean. The rule already provides a process for reporting the status of the measures – would this process impact the format/approval process of the mitigation report and/or status report?

Commented [MB11]: Agencies may choose to report these measures even though they don't enable reaching the reduction levels (i.e. they still fall short). Not sure if the suggested language goes far enough to explain that concept.

8.02.4 Timing for Determining Compliance

8.02.4.1 By October 1, 2022, CDOT shall update their 10-Year Plan and DRCOG and NFRMPO shall update their RTPs pursuant to § 43-4-1103, C.R.S. and meet the reduction levels in Table 1 or the requirements pursuant to § 43-4-1103, C.R.S and restrictions on funds.

8.02.4.2 After October 1, 2022

8.02.4.2.1 CDOT must for each Applicable Planning Document adopted or amended after October 1, 2022, CDOT must meet either the reduction levels within Table 1 for Non-MPO areas or the requirements as set forth in Rule 8-058.02.5.1.1.

Commented [MB12]: As proposed, the rule implies the applicable plans must comply immediately after October 1, 2022.

8.02.4.2.2 MPOs must meet either the corresponding reduction levels within Table 1 for each Applicable Planning Document adopted or amended after October 1, 2022, MPOs must either meet the corresponding reduction levels within Table 1, or the relevant MPO and CDOT each must meet the requirements as set forth in Rule 8-058.02.5.1.1 or Rule 8.02.5.1.2, as applicable. This provision shall not apply to MPO TIP Amendments.

Commented [MB13]: Only having this language in §8.02.1 means we'd still have to comply and submit a report for TIP Amendments, it just wouldn't have the emissions analysis. Is that the intent?

8.02.5 Demonstrating Compliance. At least thirty (30) days prior to adoption or amendment of any Applicable Planning Document except amendments to MPO TIPs, CDOT for Non-MPO areas and the MPOs for their areas shall provide to the Commission a GHG Transportation Report containing the following information:

8.02.5.1 GHG emissions analysis and, if applicable, a GHG Mitigation Plan demonstrating that the Applicable Planning Document is in compliance with the GHG Reduction Levels in MMT of CO₂e for each compliance year in Table 1 or that the requirements in Rules 8.02.5.1.1 or 8.02.5.1.2, as applicable, have been met.

Commented [MB14]: The rule needs to clearly identify that compliance is not based solely on the GHG emissions analysis (or the GHG emissions analysis needs to clearly identify that the mitigation measures are included in the analysis)

8.02.5.1.1 In non-MPO areas or for MPOs that are not in receipt of federal suballocations pursuant to the CMAQ and/or STBG programs, the Department utilizes 10-Year Plan funds anticipated to be expended on Regionally Significant Projects in those areas on projects that reduce GHG emissions.

Commented [MB15]: If "or" is retained here, it is unclear which provision applies to MPOs that receive only one of the federal suballocations

8.02.5.1.2 In MPO areas that are in receipt of federal suballocations pursuant to the CMAQ and/or STBG programs, the MPO utilizes shall award those funds anticipated to be expended on Regionally Significant Projects onto projects or approved GHG Mitigation Measures that reduce GHG emissions, and CDOT utilizes shall award 10-Year Plan funds anticipated to be expended on Regionally Significant Projects in that MPO area, on projects that reduce GHG emissions.

Commented [MB16]: Unclear when this takes effect. Projects currently in progress should not have their funding removed, as that would be highly disruptive. The least disruptive approach is to apply the requirement to future awards.

8.02.5.2 Identification and documentation of the MPO Model or the Statewide Travel Model and the Approved Air Quality Model used to determine GHG emissions in MMT of CO₂e.

8.02.5.3 At the discretion of the MPO or CDOT, submission of a Mitigation Action Plan that identifies GHG Mitigation Measures, if any, needed to meet that will count toward the reduction levels within Table 1. The Mitigation Action Plan shall include:

Commented [MB17]: Rule should allow an agency to not submit a Mitigation Action Plan. If the GHG analysis demonstrates compliance, no mitigation measures would be needed.

8.02.5.3.1 The anticipated start and completion date of each measure.

8.02.5.3.2 An estimate, where feasible, of the annual GHG emissions reductions in MMT of CO₂e achieved per year by any GHG Mitigation Measures.

8.02.5.3.3 Quantification of specific co-benefits, where feasible, including reduction of co-pollutants (PM_{2.5}, NO_x, etc.) as well as travel impacts (changes to VMT, pedestrian/bike use, transit ridership numbers, etc. as applicable).

8.02.5.3.4 Description of benefits to Disproportionately Impacted Communities.

Commented [MB18]: Again, measures would likely be identified even if they don't allow the agency to meet the reduction levels.

8.02.6 Reporting on Compliance- Following the submission of a GHG Transportation Report containing a Mitigation Action Plan, Annually by April 1, CDOT and MPOs must provide a status report to the Commission annually by April 1 on an approved form with the

following items for each GHG Mitigation Measure identified in their most recent GHG Transportation Report:

8.02.6.1 The implementation timeline;

8.02.6.2 The current status;

8.02.6.3 For measures that are in progress or completed, quantification of the benefit or impact of such measures; and

8.02.6.4 For measures that are delayed, cancelled, or substituted, an explanation of why that decision was made.

8.03 GHG Mitigation Measures. When assessing compliance with the GHG Reduction Levels, CDOT and MPOs shall have the opportunity to utilize approved GHG Mitigation Measures as set forth in Rules 8.02.3 and 8.02.5.3 to offset emissions and demonstrate progress toward compliance. Illustrative examples of GHG Mitigation Measures include, but are not limited to:

8.03.1 The addition of transit resources in a manner that can displace VMT.

8.03.2 Improving pedestrian and bike access, particularly in areas that allow individuals to reduce multiple daily trips.

8.03.3 Encouraging local adoption of more effective forms of vertical development and zoning plans that integrate mixed use in a way that links and rewards transportation project investments with the city making these changes.

8.03.4 Improving first-and-final mile access to transit stops and stations that make transit resources safer and more usable by consumers.

8.03.5 Improving the safety and efficiency of crosswalks for pedestrians, bicyclists, and other non-motorized vehicles, including to advance compliance with the ADA.

8.03.6 Adopting or encouraging the adoption of locally driven changes to parking policies and physical configuration that encourage more walking and transit trips.

8.03.7 Incorporating medium/heavy duty vehicle electric charging and hydrogen refueling infrastructure -- as well as upgrading commensurate grid improvements -- into the design of key freight routes to accelerate truck electrification.

8.03.8 Establishing policies for clean construction that result in scalable improvements as a result of factors like lower emission materials, recycling of materials, and lower truck emissions during construction.

8.03.9 Adoption of implementing or encouraging the adoption of transportation demand management practices that reduce VMT.

8.03.10 Implementing or encouraging the implementation of operations improvements such as ramp metering, signal timing, intersection improvements, access control plans, anti-idling programs, and incident management, and Intelligent Transportation Systems (ITS) strategies that result in GHG reductions.

8.04 Air Pollution Control Division (APCD) Confirmation and Verification

Commented [MB19]: This language is unclear.

Commented [MB20]: This language is unclear.

8.04.1 At least ~~sixty (60)~~forty-five (45) days prior to adoption of any Applicable Planning Document, CDOT for Non-MPO areas and the MPOs for their areas shall provide to APCD for review and verification of the technical data contained in the draft GHG Transportation Report required per Rule 8.02.5. If APCD has not provided written verification within thirty (30) days, the document shall be considered acceptable. ~~The APCD shall submit any written verification to the agency adopting the Applicable Planning Document and to the Commission.~~

8.04.2 At least ~~forty-five (45)~~thirty (30) days prior to adoption or amendment of policies per Rule 8.02.3, CDOT shall provide APCD the opportunity to review and comment. If APCD has not provided written comment within ~~thirty (30)~~forty-five (45) days, the document shall be considered acceptable.

8.05 Enforcement. The Commission shall review all GHG Transportation Reports to determine whether the applicable reduction targets in Table 1 have been met and the sufficiency of any GHG Mitigation Measures needed for compliance. ~~The Commission shall determine if the GHG Transportation Report meets the requirements of Rule 8.02.5 within sixty (60) days.~~

8.05.1 If the Commission determines the requirements of Rule 8.02.5 have been met, the Commission shall, by resolution, accept the GHG Transportation Report.

8.05.2 If the Commission determines, by resolution, the requirements of Rule 8.02.5 have not been met, the Commission shall restrict the use of funds pursuant to Rules 8.02.5.1.1 or 8.02.5.1.2, as applicable, to projects and approved GHG Mitigation Measures that reduce GHG. Prior to the enforcement of such restriction, an MPO, CDOT or a TPR in a non-MPO area, may, ~~within thirty (30) days of Commission action,~~ issue one or both of the following opportunities to seek a waiver or to ask for reconsideration accompanied by an opportunity to submit additional information:

8.05.2.1 Request a waiver from the Commission imposing restrictions on specific projects not expected to reduce GHG emissions. ~~A waiver may be requested at any time, including concurrently with the submission of a GHG Transportation Report.~~ The Commission may waive the restrictions on specific projects on the following basis:

8.05.2.1.1 The GHG Transportation Report reflected significant effort and priority placed, in total, on projects and GHG Mitigation Measures that reduce GHG emissions; and

8.05.2.1.2 In no case shall a waiver be granted if such waiver results in a substantial increase in GHG emissions when compared to the required reduction levels in this Rule.

8.05.2.2 Request reconsideration of a non-compliance determination by the Commission and provide written explanation of how the requirements of Rule 8.02.5 have been met. ~~A request for reconsideration must be submitted within sixty~~thirty (30) days of Commission action.

8.05.2.3 The Commission shall act, by resolution, on a waiver or reconsideration request within thirty (30) days of receipt of the waiver or reconsideration request or at the next regularly scheduled Commission Meeting, whichever is later. If no action is taken within this time period, the waiver or reconsideration request shall be deemed to be ~~denied~~approved.

~~8.05.2.4 Conflicts among MPOs and the Commission shall be escalated to the Governor if they cannot be resolved by the heads of the involved agencies. The Governor may delegate his or her role in this process, but not to the head or staff of the State or local air agency, State department of transportation, Commission, or an MPO.~~

8.05.3 Notwithstanding any other provision of this Rule, CDOT, DRCOG and NFRMPO must meet the requirements of § 43-4-1103, C.R.S.

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8.06 Reporting. Beginning July 1, 2025, and every 5 years thereafter, the Executive Director on behalf of CDOT shall prepare and make public a comprehensive report on the statewide GHG reduction accomplishments.

9.00 Materials Incorporated by Reference

9.01 The Rules are intended to be consistent with and not be a replacement for the federal transportation planning requirements in Rule 9.01.1 and federal funding programs in Rules 9.01.2 and 9.01.3, which are incorporated into the Rules by this reference, and do not include any later amendments.

9.01.1 Fixing America's Surface Transportation Act or the "FAST Act"), 23 U.S.C. §§ 134, 135 and 150, Pub. L. No. 114-94, signed into law on December 4, 2015, and its accompanying regulations, where applicable, contained in 23 C.F.R. Part 450, including Subparts A, B and C in effect as of November 29, 2017, and 25 C.F.R. § 170 in effect as of November 7, 2016.

~~9.01.2 Congestion Mitigation and Air Quality Improvement (CMAQ) Program, 23 U.S.C. § 149, in effect as of March 23, 2018.~~

9.01.3 Surface Transportation Block Grant (STBG) Program, 23 U.S.C. § 133, in effect as of December 4, 2015.

9.02 Also incorporated by reference are the following federal laws and regulations and do not include any later amendments:

9.02.1 Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et. seq.*, in effect as of January 1, 2009.

9.02.2 Clean Air Act (CCA), 42 U.S.C. §§ 7407-7410, and 7505a, in effect as of November 15, 1990.

9.02.2 Transportation Conformity Regulations, 40 C.F.R. § 93.101, in effect as November 24, 1993.

9.03 Also incorporated by reference are the following documents, standards, and models and do not include any later amendments:

9.03.1 Greenhouse Gas Pollution Reduction Roadmap by the Colorado Energy Office and released on January 14, 2021.

9.03.2 MOVES3 Motor Vehicle Emissions Model for SIPs and Transportation Conformity released by the U.S. Environmental Protection Agency, in effect as of January 7, 2021.

9.04 All referenced laws and regulations are available for copying or public inspection during regular business hours from the Office of Policy and Government Relations, Colorado Department of Transportation, 2829 W. Howard Pl., Denver, Colorado 80204.

9.05 Copies of the referenced federal laws and regulations, planning documents, and models.

9.05.1 Copies of the referenced United States Code (U.S.C.) may be obtained from the following address:

Office of the Law Revision Counsel
U.S. House of Representatives
H2-308 Ford House Office Building
Washington, DC 20515
(202) 226-2411
<https://uscode.house.gov/browse.xhtml>

9.05.2 Copies of the referenced Code of Federal Regulations (C.F.R.) may be obtained from the following address:

U.S. Government Publishing Office
732 North Capitol State, N.W.
Washington, DC 20401
(866) 512-1800
<https://www.govinfo.gov/>

9.0.5.3 Copies of the Greenhouse Gas Pollution Reduction Roadmap (Roadmap) may be obtained from the following address:

Colorado Energy Office
1600 Broadway, Suite 1960
Denver, CO 80202
(303) 866-2100
energyoffice.colorado.gov

9.0.5.4 To download MOVES3 released by the U.S. Environmental Protection Agency may be obtained from the following address:

U.S. Environmental Protection Agency
The Office of Transportation and Air Quality
1200 Pennsylvania Ave, N.W.
Washington, DC 20460
(734) 214-4574 or (202) 566-0495
mobile@epa.gov
<https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves>

10.00 Declaratory Orders

10.01 The Commission may, at their discretion, entertain petitions for declaratory orders pursuant to § 24-4-105(11), C.R.S.

Editor's Notes

History

Entire rule eff. 12/15/2012.

Section SB&P eff. 05/30/2013.

Entire rule eff. 09/14/2018.

Annotations

Rules 1.22, 1.25, 1.42, 2.03.1 – 2.03.1.4, 4.01, 4.02.1 – 4.02.3, 4.02.5.9, 4.04.2.2, 4.04.2.4, 4.06.1.7, 6.01.2, 7.01, 7.03 – 7.04 (adopted 10/18/2012) were not extended by Senate Bill 13-079 and therefore expired 05/15/2013.




NFRMPO Comments on CDOT Greenhouse Gas Transportation Plan Budgets Rule

North Front Range Transportation & Air Quality Council




North Front Range
Metropolitan
Planning
Organization

October 7, 2021



Agenda



- GHG Rule Background, Overview, and Schedule
- NFRMPO Draft Comment Letter
- Council Discussion and Action

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NFRMPO Comments on CDOT GHG Rule

GHG Budgets Background



- **HB19-1261** – Set statewide goals for GHG reductions compared to 2005 levels:
 - 2025 – 26% reduction
 - 2030 – 50% reduction
 - 2050 – 90% reduction
- **State's GHG Pollution Reduction Roadmap** – Identified pathway to meet HB19-1261 goals with strategies and GHG reduction targets in each sector, including the following targets for transportation:
 - 2025 – 25% (7.7 MMT reduction)
 - 2030 – 40% (12.7 MMT reduction)
 - 2050 – 99% (30.5 MMT reduction)
- **SB21-260** – Section 30 creates new requirements for CDOT and MPOs to account for GHG emissions.

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NFRMPO Comments on CDOT GHG Rule

Rule Overview

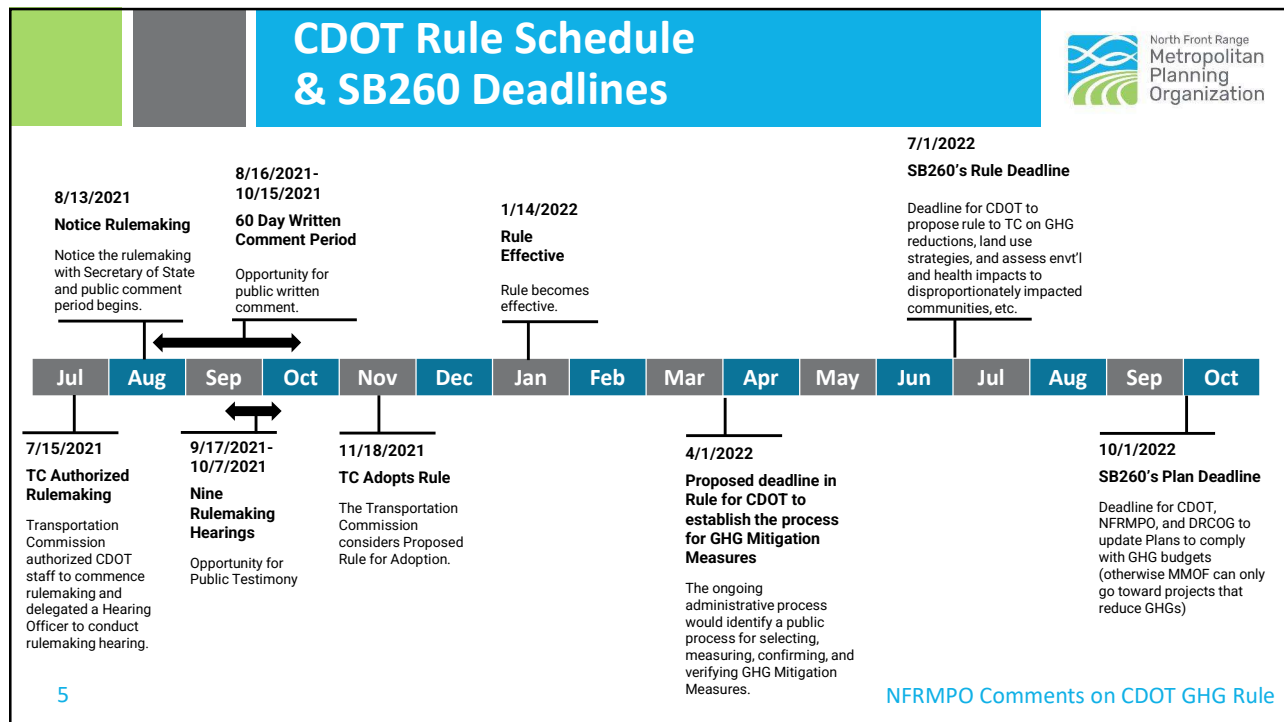


- The Transportation Commission (TC) is proposing to revise the existing **statewide transportation planning rules** in 2 CCR 601-22.
- Revisions establish **greenhouse gas (GHG) Reduction Levels** for each MPO and for CDOT in the non-MPO area for four compliance years: 2025, 2030, 2040, and 2050.
- Applies to the NFRMPO Regional Transportation Plan (**RTP**) and Transportation Improvement Program (**TIP**) beginning on October 1, 2022. For CDOT, applies to the **10-Year Plan** and Four Year Prioritized Plan in non-MPO areas.
- Compliance determined through **travel demand modeling and air quality modeling**, along with an off-model analysis of **GHG mitigation measures**.
- If GHG Reduction Levels are not met, the NFRMPO must use **CMAQ and STBG funds** on projects or approved GHG mitigation measures that **reduce GHG emissions**, and CDOT utilizes **10-Year Plan funds** anticipated to be expended on **Regionally Significant Projects** in the MPO area on projects that **reduce GHG emissions**.
- The Rule includes a **waiver process** that could allow specific projects to proceed.

CDOT Resources on the Proposed Rule, including the Redline, Notice, Cost Benefit Analysis, and Regulatory Analysis:
<https://www.codot.gov/business/rules/proposed-rules>




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NFRMPO Comments on CDOT GHG Rule



Status of Data Requests



- NFRMPO submitted a letter to the State on 9/13/21 requesting data and at least 30 days for public comment following receipt of the data to allow for data-driven comments & a data-driven rule
- As of 10/7/21, the following data has been received ☒ or is in development 
 - Technical report on the modeling process 
 - Model documentation for EERPAT ☒
 - GHG Baselines for each compliance year based on the MPO's model for NFRMPO and any other MPO requesting this analysis (unknown) ☒
 - Corrections to GHG Reduction Levels 
 - Per capita GHG emissions ☒

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NFRMPO Comments on CDOT GHG Rule

Comment Letter



Introduction

1. Recommend an extension of the public comment period
2. Strong support for development of a data-driven, feasible, and effective rule to reduce GHG emissions resulting from implementation of transportation plans

Rule Context

1. Importance of developing a clearly written, procedurally sound GHG rule
2. Amount of emission reductions from the GHG Rule needed to achieve State GHG goals
3. The role of vehicle miles traveled (VMT)

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NFRMPO Comments on CDOT GHG Rule

GHG Roadmap's Transportation Strategies



Reduce GHG from transportation by 12.7 million metric tons (MMT) in 2030

Strategies in Place

- **6 MMT** – Low and Zero Emission Vehicle rules
- **2 MMT** – Utility and public investment to support light-duty zero emission vehicles (5619-077, electrification investments from 5621-260)

**4.7
MMT**

Recommended Strategies	Status
GHG Pollution Standards for Transportation Plans	TC rulemaking in progress
Commute Trip Reduction Program – (voluntary) ETRP, encouraging telecommuting for large employers	Voluntary program to be explored
Incentivize Land Use – increase housing near jobs	Under evaluation
Indirect Source Rule – requires new developments to mitigate emissions from vehicle trips to/from the site e.g. shopping malls, offices, warehouses, and industrial sites	AQCC Rulemaking in 2022
Clean Truck Strategy – infrastructure, fleet incentives, potential regulation	CDOT study in progress
Fuel Economy Standards – participate in developing post-2025 vehicle standards (state and federal)	Federal and CARB processes
Expand Public Transit – Front Range Passenger Rail, RTD NW rail	In progress

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NFRMPO Comments on CDOT GHG Rule

Comment Letter



Recommended Improvements

- * 1. Remove or Update GHG Baselines
- 2. Set Per Capita GHG Reduction Levels
- 3. Develop Practicable GHG Reduction Levels
- * 4. Correct Errors in GHG Reduction Levels
- 5. Require Reassessment of GHG Reduction Levels
- 6. Expand Implementers of GHG Mitigation Measures
- 7. Include Operations Strategies in the GHG Mitigation Measures
- * 8. Require a Vote of the TC to Deny Waiver and Reconsideration Requests
- * 9. Remove or Modify Requirement for TIPs
- 10. Remove Restrictions on CMAQ-Funded Projects
- 11. Allow Non-Regionally Significant Projects Funded with STBG to Proceed
- * 12. Additional Clarifications to Processes
- * 13. Clarify and Update Assumptions in the Cost-Benefit Analysis

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* These recommendations were not presented to Planning Council

NFRMPO Comments on CDOT GHG Rule

Recommended Improvements



* 1. Remove or Update GHG Baselines

- Remove the GHG Baseline Projections from the rule and placing them in a supporting policy document.
- Or, if retained in the rule, update to values based on MPO travel models for any MPO that will use its own model to assess compliance, to account for projected EV shares, and to reflect GHG emissions in each regional area.

2. Set Per Capita GHG Reduction Levels

- Per Capita GHG Reduction Levels allow the targets to remain relevant regardless of changes to MPO planning area boundaries and updated growth forecasts.
- Per capita approach is used in California under SB 375.

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NFRMPO Comments on CDOT GHG Rule

Recommended Improvements



3. Develop Practicable GHG Reduction Levels

- Reduction Levels should be set based on strategies within the control of MPOs and CDOT.
- The Reduction Levels in the proposed rule were developed from a collectively exhaustive list of tested strategies, including strategies assumed to occur through market forces and/or that cannot be implemented by MPOs/CDOT:
 - Land use changes
 - Tripling telework
 - Expanding broadband access
 - Revising state health care regulations
 - Expanding transit service and reducing transit fares by 50 percent

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NFRMPO Comments on CDOT GHG Rule

Recommended Improvements



* 4. Correct Errors in GHG Reduction Levels

- Reduction levels in 2050 and other out years are unreasonably high (0.7 MMT statewide in 2050) given anticipated electric vehicle shares (97% in 2050).
- Error likely due to inadvertently applying light duty VMT reduction to medium and heavy-duty vehicles.

5. Require Reassessment of GHG Reduction Levels

- Require reassessment at least every four years by the State Interagency Consultation Team to ensure the GHG Reduction Levels are still feasible.
- Allow MPOs, CDOT, and the TC to request a feasibility review at any time; allow State Interagency Consultation Team to approve or deny request via consultation
- TC would receive the feasibility review and could initiate a rulemaking to allow revisions to occur

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NFRMPO Comments on CDOT GHG Rule

Recommended Improvements



6. Expand Implementers of GHG Mitigation Measures

- The rule should not restrict implementers of GHG Mitigation Measures to only CDOT and MPOs.
- Many of the illustrative examples of GHG Mitigation Measures are implemented by transit agencies and local governments (e.g. parking policies, transit expansion, clean construction) and their efforts should count.

7. Include Operations Strategies in the GHG Mitigation Measures

- The illustrative examples in the rule should include representative examples from the full range of strategies available to CDOT and MPOs to reduce GHG emissions from transportation, including operations strategies.

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NFRMPO Comments on CDOT GHG Rule

Recommended Improvements



* 8. Require a Vote of the TC to Deny Waiver and Reconsideration Requests

- The proposed rule allows the TC to deny waiver requests and deny requests for reconsideration without review by the TC and without a vote, simply by not taking up the request.
- The rule should not allow automatic denial through inaction.

* 9. Remove or Modify Requirement for TIPs

- The proposed rule applies to Transportation Improvement Programs (TIPs) for MPOs in nonattainment areas but it does not apply to the Statewide Transportation Improvement Program (STIP) even though some portions of the non-MPO area are designated as nonattainment areas.
- To provide consistency with non-MPO areas, TIPs for MPOs in nonattainment areas should not be subject to the rule.
- Alternatively, the rule should modify the requirement to clarify that TIPs consistent with the RTP can rely on the GHG Transportation Report for the associated RTP.

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[NFRMPO Comments on CDOT GHG Rule](#)

Recommended Improvements



10. Remove Restrictions on CMAQ-Funded Projects

- In the NFRMPO, CMAQ funding is awarded to projects that most effectively reduce ozone precursors.
- In the event GHG Reduction Levels cannot be met, the rule should not restrict eligible project types for CMAQ.

11. Allow Non-Regionally Significant Projects Funded with STBG to Proceed

- In the event GHG Reduction Levels cannot be met, the proposed rule restricts project eligibility for all STBG funds and restricts project eligibility for the portion of 10-Year Plan funds anticipated to go toward regionally significant projects.
- Non-regionally significant projects funded through STBG should proceed without a waiver.

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[NFRMPO Comments on CDOT GHG Rule](#)

Recommended Improvements



* 12. Additional Clarifications to Processes

- Allowing a waiver to be requested at any time, including concurrently with the submission of a GHG Transportation Report.
- Allowing up to sixty (60) days to submit a request for reconsideration instead of thirty (30) days.
- Clarifying which projects are subject to funding restrictions based on project implementation status.
- Allowing conflicts to be resolved through the Governor, similar to the process used in federal air quality conformity.
- Clarifying the timing and requirements of the Mitigation Action Plan.
- Ensuring the APCD Verification is available to the TC.
- Streamlining the Annual Status Report on GHG Mitigation Measures by allowing measures to be grouped.
- Identifying additional responsibilities for the State Interagency Consultation Team.
- Requiring TC Action on GHG Transportation Reports within sixty (60) days, instead of allowing an unlimited time for TC Action.

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NFRMPO Comments on CDOT GHG Rule

Recommended Improvements



* 13. Clarify and Update Assumptions in the Cost-Benefit Analysis (CBA)

- RTP Project Costs in Cost Shift Analysis (Table 1) appear to be too low.
- CBA incorrectly states RTPs are not fiscally constrained and do not account for operations and maintenance costs.
- Strategy costs in Appendix A of the CBA appear to be too low for several strategies given the unit costs and methodology provided (costs may be 2.4 to 3.7 times higher than costs displayed in the tables).
- Some unit costs appear to be too low and rely on out-of-state or nationwide sources that may not be applicable to Colorado.
- CBA does not account for costs of electric buses or the cost of reducing transit fares even though the emissions benefits from those strategies are included.
- CBA assumes vehicle crashes “are reduced in proportion to VMT” which fails to consider the increase in fatalities that occurred in 2020 concurrent with VMT reductions.

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NFRMPO Comments on CDOT GHG Rule

Discussion and Next Steps



- Suggestions on the Draft NFRMPO Comments
- Approve NFRMPO Comment Letter
- Remaining Data Needs
 - Written Comment deadline is October 15 to dot_rules@state.co.us
 - Potential Public Comment period extension

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NFRMPO Comments on CDOT GHG Rule

Questions?



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