



COLORADO

Department of Transportation

Clean Transit Enterprise Board

April 12, 2022



AGENDA

Topic	Presenter
Welcome, Roll Call, Agenda Review (5 min)	Kay Kelly, CDOT
Rulemaking Hearing: 2 CCR 607-1 Rules Governing the Clean Transit Enterprise Processes and Fees (25 min)	Matt Frommer, Chair Sari Weichbrodt, CDOT Kay Kelly, CDOT
Action Agenda (5 min) <ul style="list-style-type: none"> • Approval of Minutes - 3/29/22 CTE Board Meeting 	Matt Frommer, Chair
CTE Bylaw Updates (10 min)	Kathy Young, COAG
CTE 10-year Plan (60 min)	Mike King, CDOT
Adoption of 2 CCR 607-1, Rules Governing the Clean Transit Enterprise Processes and Fees (5 min)	Matt Frommer, Chair
Wrap Up and Next Steps (10 min)	Kay Kelly, CDOT



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Clean Transit Enterprise
Rulemaking Hearing
April 12, 2022



Rulemaking for Enterprise Fee Setting

Process and Timeline

- Open Rule: Enterprise Opened Rule February 22
- File Rule: Filed rule with the Secretary of State and DORA February 25
- Outreach: CDOT staff sent outreach emails February 25, March 7
- Updated Hearing Date: CDOT staff filed notice March 4
- Public Notice in Colorado Register: Published March 10
- Comment Deadline: April 7
- Public Hearing: April 12 (more than 20 days after Colorado Register date)
- Adopt Rule: Enterprise Board adopts Rule on **April 12**
- Effective Date: As early as May 31



2 CCR 607-1 Rules Governing the Clean Transit Enterprise Processes and Fees

Statutory Authority for Rulemaking

43-4-1203 (6)(g) “... To promulgate rules to set the amount of the clean transit retail delivery fee at or below the maximum amount authorized in this section and to govern the process by which the enterprise accepts applications for, awards, and oversees grants, loans and rebates...”

43-4-1203 (7)(b) “For retail deliveries of tangible personal property purchased during the state fiscal year 2022-2023, the enterprise shall impose the clean transit retail delivery fee in a maximum amount of three cents.”



Fee on Retail Deliveries

- Retail deliveries are increasing and are expected to continue to increase in communities across the state.
- The adverse environmental and health impacts of increased emissions from motor vehicles used to make retail deliveries can be mitigated and offset by supporting the widespread adoption of electric buses for transit fleets and reducing vehicle miles traveled by encouraging people to choose clean, efficient, public transit options instead of personal motor vehicle travel.
- Instead of reducing the impacts of retail deliveries by limiting retail delivery activity through regulation, the legislature opted to impose a small fee on each retail delivery and use fee revenue to fund necessary mitigation activities.
- Essentially, the fee will apply to that delivery and paid by the purchaser of the goods.



1.0 Statement of Basis and Purpose and Statutory Authority

- States the reason for the rule and where the authority lies in statute for the Enterprise to promulgate rules.

2.0 Definitions

- Duplicates many statutory definitions, and defines terms that are used in the Rule.
 - Added **the proportion of households that identify as minority is greater than forty percent** to the definition of DI Communities in Rule 2.3 to align with statute.

3.0 Fees

- Sets the initial fees effective July 1, 2022.
- Assumes the adjustment for inflation and working with DOR to determine the new rate.
- Reiterates statute that the Enterprise must notify DOR of changes in the fee by each March 15.



4.0 Process for Awarding and Overseeing Grants, Loans, and Rebates

- Selection of grants will be done on a competitive basis.
- Process will be part of **regular calls for transit grants at CDOT**.
- Criteria for awards will be established by the Enterprise and published no fewer than 60 days before any grant deadlines.
- Applications will be assessed and scored based on their support for the business purpose of the Enterprise.
 - Replacement of gasoline and diesel vehicles
 - Provide charging infrastructure
 - Support facility modifications
 - Fund planning studies
- The Enterprise will approve the grants.
- CDOT DTR staff will oversee the grant process and “manage” the grants.

5.0 Declaratory Orders

- Every rule, by statute, must provide for the entertaining of, and prompt disposition of petitions for declaratory orders to terminate controversies or remove uncertainties surrounding the Rule.



Appropriate Motion to Adopt the Rules

- At the conclusion of today's Board meeting, we will ask this Board to adopt the rules.
- An appropriate motion, if no changes are made to the rules as a result of public comment today, would be to “Move to adopt 2 CCR 607-1, Rules Governing Clean Transit Enterprise Processes and Fees as presented.”



Public Testimony on 2 CCR 607-1, Rules Governing Clean Transit Enterprise Processes and Fees

- Public comments are limited to 3 minutes per speaker
- Please state your full name and the organization you are representing
- Pre-registered commenters will be called upon first; after that, please raise your hand to indicate if you would like to make a comment
- Please remain on mute and wait to be recognized by the Chair before speaking



Motions to Approve:

1. Minutes of the March 29, 2022 CTE Board Meeting



CTE Bylaw Updates

Counsel at the Attorney General's Office recommended changes to the CTE Bylaws.

- Article II, Section F has been amended to clarify that Enterprise Board votes and other actions and decisions will be recorded in a registry of actions published after meetings and Article IV, Section B(3) has been amended to allow the Board Secretary to create the registry.
- Article IV, Section B(4) has been amended to give the Program Administrator signature authority for the Enterprise Board and give the Program Administrator the authority to execute legal and financial documents that have been approved by the Enterprise Board.

Suggested Motion to approve the CTE bylaw amendments as presented



10-Year Plan Discussion



Clean Transit Enterprise 10-Year Plan

Requirements

(10)(a) TO ENSURE TRANSPARENCY AND ACCOUNTABILITY, THE ENTERPRISE SHALL:

(I) NO LATER THAN JUNE 1, 2022, PUBLISH AND POST ON ITS WEBSITE A TEN-YEAR PLAN THAT DETAILS HOW THE ENTERPRISE WILL EXECUTE ITS BUSINESS PURPOSE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32 AND ESTIMATES THE AMOUNT OF FUNDING NEEDED TO IMPLEMENT THE PLAN. NO LATER THAN JANUARY 1, 2032, THE ENTERPRISE SHALL PUBLISH AND POST ON ITS WEBSITE A NEW TEN-YEAR PLAN FOR STATE FISCAL YEARS 2032-33 THROUGH 2041-42;

(II) CREATE, MAINTAIN, AND REGULARLY UPDATE ON ITS WEBSITE A PUBLIC ACCOUNTABILITY DASHBOARD THAT PROVIDES, AT A MINIMUM, ACCESSIBLE AND TRANSPARENT SUMMARY INFORMATION REGARDING THE IMPLEMENTATION OF ITS TEN-YEAR PLAN, THE FUNDING STATUS AND PROGRESS TOWARD COMPLETION OF EACH PROJECT THAT IT WHOLLY OR PARTLY FUNDS, AND ITS PER PROJECT AND TOTAL FUNDING AND EXPENDITURES;

(III) ENGAGE REGULARLY REGARDING ITS PROJECTS AND ACTIVITIES WITH THE PUBLIC, SPECIFICALLY REACHING OUT TO AND SEEKING INPUT FROM COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, AND INTEREST GROUPS THAT ARE LIKELY TO BE INTERESTED IN THE PROJECTS AND ACTIVITIES; AND

(IV) PREPARE AN ANNUAL REPORT REGARDING ITS ACTIVITIES AND FUNDING AND PRESENT THE REPORT TO THE TRANSPORTATION COMMISSION CREATED IN SECTION 42-1-106 (1) AND TO THE TRANSPORTATION AND LOCAL GOVERNMENT AND ENERGY AND ENVIRONMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE ENTERPRISE SHALL ALSO POST THE ANNUAL REPORT ON ITS WEBSITE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (10)(a)(IV) TO THE SPECIFIED LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.



Clean Transit Enterprise 10-Year Plan

Draft Outline

1. Introduction
 - a. SB21-260 Language
 - b. State of Colorado ZEV Goals
2. Anticipated Fee Revenues for FY23-FY32
 - a. Fee Levels
 - b. Anticipated Revenues by Year
 - c. Potential Matching Funds
3. Transit Electrification Barriers & Opportunities
 - a. Current State Transit Fleet Inventory
 - b. Technology Availability
 - c. Barriers to Implementation
 - d. Anticipated Costs & Timelines
 - e. Supporting Policies & Actions
4. Clean Transit Enterprise Funding Strategy
 - a. Funding Mechanisms
 - b. Funding Category Prioritization
 - c. Project Prioritization
 - d. Match Levels
 - e. Scrapping Requirements
 - f. Replacement Ratios
 - g. Other Policy Decisions
5. Implementation & Tracking
6. Conclusions

Legislation and 2020 Colorado EV Plan

CDOT Division of Accounting & Finance (CDOT DAF) and Colorado Department of Revenue (DOR)

Colorado Transit Zero Emission Vehicle Roadmap

Focus of Clean Transit Enterprise Board & Stakeholder Conversations



Match Levels

Many state and federal grant programs require a minimum 20% match by grantees. However, the text of SB21-260 does not specify whether applicant match is required, or at what level.

- In the past, some programs have used a more generous match (i.e. 10%) to make a program more attractive or accessible
- Other programs have offered a less generous match (i.e. 50%) to spread limited grant dollars further and ensure greater applicant commitment
- There is also an option to established tiered match levels based on applicant need or some other factor



Key Questions

- Should the 10-Year Plan establish specific match levels or defer to staff in the program design stage of the process?
- If match relief or tiered match levels are included, what factors should be used to define them?
- Should match levels be lower for some project types (i.e. planning) than others?
- Should applicants be encouraged to use CTE funding as match for other state or federal grant programs? Alternatively, would other state or federal grant programs be acceptable as match for CTE funding?
- Are there other considerations or points of discussion?



Scrapping Requirements

In the past, some zero-emission vehicle grant programs (including those funded by the Volkswagen Settlement) have required grantees to scrap vehicles in exchange for new vehicle funding

- This provides an emissions benefit by ensuring that an existing gasoline or diesel vehicle comes off the road permanently, rather than continuing to operate in another fleet
- It can also represent a barrier for agencies seeking to expand their fleets at the same time that they transition fuels
- Scrapping may also encourage waste by forcing agencies to destroy an otherwise usable vehicle before the end of its useful service life
- There are program models in other states that require scrapping but allow for newer vehicles to be “handed down” to other agencies as a compromise



Scrapping Requirements

Key Questions

- Should CTE-funded grant programs require or encourage scrapping of existing gasoline or diesel vehicles?
- Should there be a “hand-me-down” option that still results in a scrapped vehicle but avoids the destruction of a still usable diesel or gasoline vehicle by a different agency?
- Should greater flexibility in scrapping requirements be given to transit agencies to allow for fleet expansion during the transition process?
- Are there other considerations or points of discussion?



Replacement Ratios

Other state and federal grant programs often require a 1:1 ratio between new vehicles being funded and old vehicles being replaced.

However, early-adopter transit agencies in Colorado have sometimes found that, given range limitations, a single battery electric bus cannot always effectively replace an existing diesel or gasoline vehicle for its entire duty cycle.

- This issue could be mitigated by allowing transit agencies to replace each diesel/gasoline vehicle with one or more zero emission vehicles in a 1.5:1, 2:1, or other higher ratio
- This could result in a smoother transition from an operational standpoint, but might also increase the costs of individual grant projects
- A higher vehicle replacement ratio could also potentially create other unintended side effects related to parking, charging, staffing, etc.



Replacement Ratios

Key Questions

- Should CTE-funded programs require a 1:1 vehicle replacement ratio or allow greater flexibility?
- What factors should be considered in deciding whether a higher replacement ratio is justified for a given project proposal?
- In terms of charging infrastructure, should a 1:1 charger-to-vehicle ratio be assumed or would a higher or lower ratio be an option?
- Are there other considerations or points of discussion?



Data Reporting Requirements

SB21-260 requires the CTE to establish a Public Accountability Dashboard to track projects funded through its programs. It does not explicitly define what data points must be collected and shared via the Dashboard beyond overall expenditures, funding status, and project completion updates.

CDOT's Division of Transit & Rail also requires transit agencies to report monthly usage data for vehicles funded with state or federal grants.

- More recently, CDOT staff have worked with early-adopter transit agencies to voluntarily collect more detailed zero-emission data related to total mileage, average charging costs, kWh per mile performance, and other relevant details
- CDOT staff are currently developing a Transit Emissions Dashboard that combines mileage, ridership, vehicle fuel type, and other factors to estimate statewide transit emissions reduction benefits and track ZEV transition impacts over time



Data Reporting Requirements

Key Questions

- Should CTE-funded projects be required to report more detailed usage data for the state to compile, analyze, and share with other transit agencies and stakeholders?
- If so, what data points should be included (or excluded) from the requirements?
- Are there other considerations or points of discussion?



Upcoming Stakeholder Engagement Opportunities

- April 20, 2022 - CEVC Transit Subgroup Meeting
- May 5, 2022 - Transit Monthly Meeting
- May 13, 2022 - Transit & Rail Advisory Committee (TRAC) Meeting
- May 18, 2022 - CEVC Transit Subgroup Meeting
- May 23-27, 2022 - CASTA Spring Conference
- May 25, 2022 - **Clean Transit Enterprise Board Meeting**
- June 1, 2022 - 10-Year Plan Completion Deadline



Questions & Discussion



Conclusion of Rulemaking

Additional Public Testimony

- Please raise your hand to indicate if you would like to make a comment
- Please wait to be recognized by the Chair before speaking
- Public comments are limited to 3 minutes per speaker

Motion to Adopt Rules:

“Move to adopt 2 CCR 607-1, Rules Governing Clean Transit Enterprise Processes and Fees as presented.”



Wrap-Up / Next Steps

Upcoming Dates:

- Wednesday, May 25th - CTE Board Meeting
- Wednesday, June 1st - Deadline to Publish/Post 10-year Plan

Upcoming Meeting Topics:

- 10-year Plan Approval
- Public Accountability Dashboard
- Transit Fleet Highlights and Case Studies
- Meeting Cadence for FY23 (Starting July 1, 2022)



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Clean Transit Enterprise

To support Colorado's transit electrification through planning efforts, transit site upgrades, procurement of electric transit buses, and deployment of associated charging infrastructure.



About the Clean Transit Enterprise

This enterprise is created within the Colorado Department of Transportation (CDOT) to support public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, as well as construction and development of electric motor vehicle charging and fueling infrastructure. The bill allows the enterprise to impose a clean transit retail delivery fee to fund its operations, and to issue grants, loans or rebates to support electrification of public transit.

Clean Transit Enterprise Governing Board

The Clean Transit Enterprise Board includes six members appointed by the governor, and executive directors or their designees from CDOT, Colorado Department of Public Health and Environment (CDPHE) and the Colorado Energy Office. Appointed board members will serve terms of three or four years.

Contact Us

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Resources

- [Board Appointments](#)
- [Enterprise Funds](#)
- [Board Powers & Duties](#)
- [2021 Transit Zero Emission Vehicle \(ZEV\) Roadmap](#)

Upcoming Meetings

- Board Meeting
March 29, 2022 at 2:00 p.m. MT
- Proposed Permanent Rulemaking Hearing
April 12, 2022 at 1:30 p.m. MT
[Meeting Registration](#)
[Proposed Permanent Rule](#)

Prior Meetings

- January 31st, 2022
[Video Recording](#)
[Meeting Minutes](#)
[Slide Presentation](#)
[Agenda Packet](#)

- February 22, 2022
[Video Recording](#)
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