

CHECKLIST ON CDOT's GREENHOUSE GAS POLLUTION STANDARDS RULEMAKING

This checklist, developed by a coalition of environmental, health and consumer advocates, evaluates how the rulemaking from the Colorado Department of Transportation on the Greenhouse Gas Pollution Standards advances five overarching goals through the rule itself and the process to develop and implement it. The checklist uses a yes, no or partial system. It has been updated on August 16 with an initial analysis of the draft rule released on August 13, 2021.

Updated August 16, 2021

Category	Does the plan...	Yes, No, Partial	Notes on the proposed rule (August 16, 2021)
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Goal A. Will the rule result in more multimodal options such as improved transit service and new bike and pedestrian infrastructure, and fewer highway expansion projects that increase driving and pollution? Does the plan deliver these options and their co-benefits to disproportionately impacted communities?

A.1	Expand Multimodal Options	Increase access to clean, safe, and affordable multimodal transportation options like transit, biking, and walking?	Yes	The proposed rule will direct more investment toward projects that reduce GHG pollution. The proposed rule includes a "GHG Mitigation Menu" and requires a process to determine their GHG impacts. (8.03)
A.2	Environmental Justice	Prioritize projects that reduce local co-pollutants, protect public health, and increase access to clean mobility and jobs for disproportionately-impacted communities?	Partial	The proposed rule requires CDOT and MPOs to submit a "Mitigation Action Plan" with anticipated reductions of co-pollutants like PM2.5 and NOx, and a description of the benefits to Disproportionately Impacted (DI) Communities. (8.02.5.3.3). The process to develop "GHG Mitigation Measures" and "Mitigation Action Plans" should include DI communities and prioritize projects that improve health and equity outcomes.
A.3	Maximizing Co-Benefits	Prioritize mitigation strategies that deliver co-benefits beyond climate by improving equity, economic development, sustainable land use, air quality, safety, congestion, and mobility? See note 1 below.	Yes	The GHG Mitigation Menu includes strategies that deliver significant co-benefits such as transit improvements, bicycle and pedestrian infrastructure, infill development, and Transportation Demand Management (TDM) programs. (8.03)
A.4	Multimodal Goals	Quantify the increases in transit service, bike/pedestrian accommodations and land use changes that are needed to reach the VMT targets?	No	Assumptions on VMT, transit ridership, and bicycle and pedestrian infrastructure were included in the model to calculate the GHG reduction targets, These assumptions should be acknowledged and listed in the rule or the preamble.
A.5	Align with Regional Goals	Support regional planning goals around place, mobility, environment, economic development, livability and vitality such as those as articulated in the Denver Regional Council of Governments' long range MetroVision 2050 plan?	Yes	The GHG Mitigation Menu includes strategies that support DRCOG's Metro Vision 2050 performance measures such as transit improvements, bicycle and pedestrian infrastructure, infill development, and Transportation Demand Management (TDM) programs. (8.03)

Goal B. Does the rule chart a course to meet Colorado's HB-1261 climate targets by setting ambitious greenhouse gas (GHG) and vehicle-miles-traveled (VMT) reduction targets?

B. 1	Transformational policy	Demonstrate creativity and leadership? Is the policy transformational? Is it a model for other state DOTs and agencies seeking to reduce transportation GHG emissions by reducing VMT?	Yes	Linking GHG reductions to transportation planning is important and challenging work, and a successful CDOT rule would be the first of its kind in the U.S. CDOT deserves kudos for tackling climate change and initiating this rulemaking process. With some improvements, this rule could serve as a national model for climate-friendly transportation planning.
B.2	Climate Targets	Set ambitious GHG reduction targets for transportation plans to make meaningful progress toward the 12.8 MMT reduction required to achieve our 2030 transportation GHG targets in the state's GHG Roadmap?	Partial	The proposed rule sets a target of 1.5 MMT in transportation GHG reductions by 2030, about 12% of the 12.8 MMT target (8.01.2). Such a target would leave a remaining gap of 2 MMT - reductions that will not come from vehicle electrification and therefore, must be achieved through VMT reduction and stronger GHG Planning rule targets.

B.3	VMT Reduction Targets	Set a statewide Vehicle-Miles-Traveled (VMT) reduction target of at least 10% by 2030?	No	The preamble talks about the need to "reduce growth in driving" to meet statewide GHG pollution reduction goals. The GHG reduction targets should be translated into VMT reduction targets for clarity and ease of implementation.
B.4	Comprehensive Approach	Create statewide and regional GHG budgets that apply to CDOT and all Metropolitan Planning Organizations (MPOs) on the same timeline?	Partial	The proposed rule applies to CDOT and MPOs in Nonattainment Areas on the same timeline, but does not apply to MPOs in Attainment for local air quality. Unlike local air pollution, GHG pollution is a global issue. Many rural areas around the state will suffer from the impacts of climate change and therefore, need to play their part in cutting GHG emissions. All TIPs and amendments to the TIPs should be required to demonstrate compliance.

Goal C. Does the process provide robust participation opportunities for disproportionately-impacted communities? Do they have power in the process?

C.1	Create Transportation Equity Framework	Commit CDOT to creating a Transportation Climate Equity Framework, similar to the state's Climate Equity Framework, that identifies historic sources of environmental racism in transportation planning and provides a path towards rectifying them by creating transportation equity indices?	No	The CDPHE Climate Equity Framework, while not perfect, is a good starting point for acknowledging past injustices and providing a path towards rectifying them, both in process and in outcomes. The rule should build on this Framework by developing and applying transportation equity indices.
C.2	Inclusive Rulemaking Process	Using multiple methods of outreach, did the agency provide a variety of participation opportunities at different times of the day, across all geographic regions, in multiple languages, and in statewide disproportionately-impacted communities as defined by HB21-1266? Provide transportation support, childcare, and funding for community members to reduce costs of participating?	Partial	CDOT is scheduling multiple public hearings and inviting participation, particularly from DI communities. We recommend including language translation and sharing details of public hearings as soon as possible. We encourage CDOT to do additional targeted outreach to DI communities beyond the formal hearings.
C.3	Inclusive Rulemaking Implementation	Does the agency commit to including representatives of disproportionately impacted and marginalized communities in developing, monitoring and implementing the rule, including at the staff level of transportation agencies, at the decision-making level, and through deliberate engagement of community leaders?	No	CDOT should work with equity and environmental justice groups to plan the community outreach process for the rulemaking. The process for developing the Mitigation Measures should explicitly include input from environmental justice organizations. APCD review (8.04) should include active approval from the Climate Equity Advisory Committee.
C.4	Verifiable Incorporation of Community Input	Include written response to community feedback in the rulemaking language? Provide a mechanism to allow community members to object to any finalized decision or rulemaking if the equity framework principles weren't followed or if community preferred solutions were not adequately evaluated, considered, or prioritized?	No	The rule should require written responses to issues raised in the rulemaking and the development of the Mitigation Measures, and provide a process for objections.

Goal D. Does the modeling accurately estimate the GHG and VMT impacts of current and future transportation projects and will that information be publicly available?

D.1	Project-Level Analysis	Require that GHG and VMT impacts be calculated for individual projects and those results used in the project prioritization process?	Partial	SB21-260 requires CDOT and MPOs to measure the GHG and VMT impacts of transportation capacity projects. The proposed rule incorporates these requirements into the compliance determination process for overall plans, but does not explicitly prioritize individual projects that maximize VMT and GHG reductions (8.02.5.3.2). The focus on larger "transportation capacity projects" and "regionally significant projects" may leave out smaller projects that deliver greater benefits per dollar spent.
D.2	Modeling Review & Improvement	Implement the most up-to-date transportation models and include a review process to reassess and improve the model based on how well it performs against real-world induced demand and GHG emissions data? Invite outside experts to evaluate the modeling on a regular basis and share those findings.	Partial	Requires CDOT, MPOs, and CDPHE to enter into an Intergovernmental Agreement to outline responsibilities for the modeling. (8.02.2). This Agreement needs more detail and, at a minimum, should include a periodic reassessment of the model based on how well it performs against real-world data, particularly on induced demand.

D.3	Modeling Accuracy	Explicitly recognize and measure the impact of induced travel from highway capacity, interchange, and traffic improvement projects on GHG emissions and model it with best-practice tools like the National Center for Sustainable Transportation (NCST) Induced Travel Calculator?	Partial	The preamble to the rule explicitly recognizes induced travel from highway projects, interchanges, and development. The NCST calculator is not mentioned.
D.4	Transparency	Make the modeling results publicly available and easily accessible, and create a dashboard to track our progress toward meeting GHG and VMT reduction targets, as well as specific multimodal indicators such as transit ridership, proximity to high-frequency transit, bike lane miles, the cost to use different transportation modes, location efficiency, equity metrics, and qualitative analysis?	TBD	The proposed rule language commits to an annual report and a five year report. These reports should be transparent with all relevant information easily accessible in the form of a dashboard or other tracking mechanism.

Goal E. Are enforcement, evaluation, and improvement mechanisms built into the rule to ensure we meet the targets with verifiable reductions? Will they happen soon?

E.1	Urgency & Timeliness	Apply the rule to near-term transportation planning and programming to address the 2025 and 2030 climate targets including Transportation Improvement Plans (TIPs) and CDOT four year plans?	Partial	The proposed GHG reduction targets apply to "Applicable Planning Documents", which 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, 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." This should also include Amendments to TIPs and the TIPs for all MPOs including those in attainment areas.
E.2	Real & Additional GHG Reductions	Ensure that credit for any electrification elements are additional and not double-counted in other policies and programs?	No	The reductions from this rule need to come from investments that increase mobility options and reduce driving trips and distances. The baselines in Table 1 should be clarified to articulate what portion of GHG reductions are expected to come from vehicle electrification versus VMT reduction. Specific electrification measures like medium- and heavy-duty charging infrastructure may be included in the mitigation list as long as their GHG benefits are not double-counted in another policy or program.
E.3	Enforcement	Include enforcement mechanisms including funding, permitting, and access management to ensure compliance with the state and regional GHG budgets?	Partial	Enforcement mechanisms are included, but there may be loopholes (eg. Mitigation Measures have no deadline and can be delayed or cancelled without enforcement (8.2.6.4)). The rule should also include specific restrictions for project permitting, especially for highway interchanges that enable sprawling development and more VMT.
E.4	Course-Correction	Include a policy mechanism to track progress and if off course, trigger enhanced enforcement and an update of the rule?	Partial	The proposed rule requires APCD to review individual plans and the modeling methodology. The rule should require a periodic review and update to the rule if it's determined that Colorado is not on track to achieve the necessary GHG reductions.

Note 1. Long list to draw from page 29: https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf