

DEPARTMENT OF TRANSPORTATION

Transportation Commission

RULES REGARDING THE USE OF WASTE TIRES FOR NOISE MITIGATION PURPOSES ALONG COLORADO STATE HIGHWAYS PURSUANT TO § 43-2-401 C.R.S.

2 CCR 601-17

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

1.00 Statement of Basis and Purpose

The purpose of these rules is to establish consistency regarding the applications for recycled waste tire grants pertaining to noise mitigation measures pursuant to § 43-2-401 *et seq.* C.R.S. (2011).

2.00 Authority

23 CFR 1.23 Rights-of-Way

23 CFR 710.403 Management

23 CFR Part 772 Noise Abatement

§43-2-401, C.R.S. *et seq.* C.R.S. (2011). § 43-2-404 C.R.S. (2011) provides authority to the Transportation Commission to promulgate rules pertaining to noise mitigation standards and measures.

3.00 Definitions

- 3.01 "Applicant" shall mean a homeowner or renter residing in an eligible area, or the operator of a temporary housing facility or public housing facility located in an eligible area, who submits an application to the transportation commission in accordance with these rules.
- 3.02 "Department" or "CDOT" shall mean the Department of Transportation pursuant to § 43-2-102(2) C.R.S. (2011).
- 3.03 "Eligible Area" shall mean a residential area that: (a) is located adjacent to a state highway; (b) existed as a residential area before the state highway was constructed or last widened, and (c) is located within the boundaries of a local government that, as of the date of the application, has adopted an ordinance or resolution to mitigate the effects of noise in future residential or other noise-sensitive development adjacent to the state highways within the boundaries of the local government.
- 3.04 "Local Entity" for purposes of these rules shall mean the responsible party consisting of the applicant, a group or organization registered and in good standing with the Colorado Secretary of State, or a local government.
- 3.05 "Local government" shall mean a city, town, county, or city and county.
- 3.06 "Noise Mitigation Measures" shall mean for purposes of these rules noise abatement measures approved by the Transportation Commission pursuant to § 43-2-404 C.R.S. (2011).

3.07 "Transportation Commission" shall mean the commission created pursuant to § 43-1-106 C.R.S. (2011).

4.00 General Eligibility Criteria for Noise Mitigation Measures Funded Pursuant to § 43-2-402, C.R.S. and § 43-2-403 C.R.S. (2011).

4.01 The Applicant must be located within the boundaries of a Local Government that, as of the date of the application, has adopted an ordinance or resolution that requires the mitigation of the effects of noise on future residential or other noise-sensitive developments adjacent to the state highways within the boundaries of the local government.

4.01.1 To be eligible, the application must meet the following criteria:

4.01.1.1 Comply with the Department's Noise Analysis and Abatement Guidelines dated June 16, 2011; however, with regard to the supporting documentation submitted with an application, pursuant to 43-2-402(2), C.R.S., the application for noise mitigation measures shall: (a) be accompanied by a petition in support of the noise mitigation measures signed by members of no less than seventy-five percent of the households in an eligible area who live no more than four-tenths of one mile from the nearest edge of the right-of-way of the state highway; (b) specify whether a local government has agreed to provide any of the moneys necessary to construct the noise mitigation measures, and (c) specify which noise mitigation measures the applicant proposes for the eligible area.

4.01.1.2 Be compatible with any existing noise mitigation measures in the eligible area; and

4.01.1.3 Comply with zoning and building requirements established by the local government.

4.02 The application must specify the proposed noise mitigation measure (i.e. noise barrier). To be eligible, the proposed measure must contain or make use of, in part, recycled, recapped, or other previously used waste tires.

4.03 Applications that propose using CDOT right-of-way, but do not purchase all the necessary CDOT right-of-way, must contain evidence satisfactory to CDOT that a Local Entity has committed to providing funding for any necessary maintenance and repair of the noise mitigation measure.

4.04 If the local entity does purchase the right-of-way, then the maintenance and repairs to the mitigation measure shall be the sole responsibility of the local entity. Applications must contain evidence satisfactory to CDOT that a Local Entity has committed to providing funding for any necessary maintenance and repair of the noise mitigation measure.

4.05 In the event there is more than one acceptable project in a given cycle, the list of eligible projects will be ranked according to the Department's Noise Mitigation Prioritization Formula herein and submitted to the Department of Public Health and Environment for consideration.

5.00 Noise Mitigation Prioritization Formula

5.01 When multiple applications are being considered for recycled waste tire grant funding, the Department shall prioritize the consideration of applications based on the following factors. Each factor will be rated using the following criteria on a scale from 0-10 points. The maximum score that a request can accumulate is 30 points.

5.02 Noise Mitigation Benefits - 10 points

5.02.1 The procedure to determine the benefits of the requested mitigation measure will be the method for determining the cost-benefit index of a barrier as described in the CDOT Noise Analysis Guidelines (2011) and these rules:

Less than \$4500/ reduction dBA per receiver: 5 points

\$4501-\$6800/ reduction dBA per receiver: 4 points

More than \$6800/ reduction dBA per receiver: 0 points

5.02.2 The application that demonstrates the maximum number of benefited receivers experiencing 5 dBA or more of noise reduction as a result of the mitigation measure would be eligible for an additional 5 points. All other applicants would receive 0 points.

5.03 Noise Reduction Effectiveness - 10 points

5.03.1 A minimum of 7 dBA of noise reduction must occur at one residence associated with each noise abatement measure as described in the CDOT Noise Analysis and Abatement Guidelines (2011).

5.03.2 Based on the average dBA reduction of all benefited receivers, the following priority points will be applied:

7 dBA average or more designed noise reduction per residence: 10 points

6-5 dBA average designed noise reduction per residence: 8 points

Less than 5 dBA average noise reduction per residence: 0 points

5.04 Previous Type II List Status - up to 10 points

5.04.1 Up to ten points will be awarded for project areas that were included on the 1992 CDOT Type II barrier list. The list consisted of four "tables" labeled A through D. All of the locations that were on Table A of the list have been completed. Areas listed in tables B through D can be eligible for the following bonus points:

Locations listed in Table "B": 10 points

Locations listed in Table "C": 6 points

Locations listed in Table "D": 4 points

Not listed: 0 points

Editor's Notes

History

Entire rule eff. 08/01/2008.

Entire rule eff. 04/14/2012.

Annotations

Rule 7.0 (adopted 06/19/2008) was not extended by House Bill 09-1292 and therefore expired 05/15/2009.