



COLORADO
Department of Transportation

2829 W. Howard Place
 Denver, CO 80204-2305

Notice of Proposed Rulemaking

Executive Director
Rules Governing Outdoor Advertising in Colorado
2 CCR 601-3

Date & Time of Public Hearing: Friday, October 1, 2021, at 10 a.m.

I. Notice

As required by the State Administrative Procedure Act found at section 24-4-103, C.R.S., the Executive Director of the Colorado Department of Transportation (“CDOT”) gives notice of proposed rulemaking.

This proposed permanent rulemaking hearing is scheduled for **October 1, 2021, at 10 a.m.** and will only be conducted in a virtual setting. All interested and affected parties must register to attend the public hearing through the registration link provided in the table below.

Date	Location	Time	Registration Links
10/01/2021	Webinar Only	10 a.m.	Registration Link

How to Register for Hearing

You must click on the registration link from the above table to register for the hearing. When you register, you must provide your full name and email address. You may also provide your telephone number and the organization that you are representing. Finally, please indicate whether you plan to testify during the hearing and/or submit written comments. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

The registration link for the hearing is also available on the Colorado Department of Transportation’s website at <https://www.codot.gov/business/rules/proposed-rules>.

II. Subject

Senate Bill 21-263 took effect in Colorado on June 30, 2021, changing the permitting and enforcement processes for the control of advertising devices in areas near interstates and state highways and visible to the traveling public from the roadway to a compensation-based approach.

The specific purpose of this rulemaking is to consider changes to align CDOT’s processes for permitting and enforcement of outdoor advertising devices with Senate Bill 21-263. CDOT proposes the following rule changes:

- Establish a new compensation-based approach within the rules for permitting and enforcement of outdoor advertising devices in areas near interstates and state highways and visible to the traveling public from the roadway.
- Remove the previous categories of outdoor advertising devices (i.e., On-Premise Sign, Off-Premise Sign, Official Sign, and Directional Sign) from the rules.



- Redefined the definition of “Advertising Device” to reference the definition in statute.
- Add the new definition of “Compensation” to reference the definition in statute.
- Modify the noncompliance requirements to give a property owner or sign owner the option to execute an affidavit under the penalty of perjury in the event the property owner or sign owner does not believe their sign is an advertising device requiring a CDOT permit.
- Streamline the hearing procedures and also modify the procedures to allow an applicant who was denied a permit to request an expedited hearing within 30 days of the notice of denial.
- Clarify that Changeable Electronic Variable Message Signs may not be within 1000 feet of each other that are facing the same direction.
- Update the materials incorporated by reference within the rules.
- Add procedures for interested and affected parties to petition for a declaratory order to increase transparency for the public and be in compliance with the Colorado Administrative Procedure Act.
- Finally, make other non-substantive changes to align the rules with Senate Bill 21-263 and fix typographical or grammatical errors.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory Authority

The specific authority under which the Executive Director of CDOT shall establish these rules is set forth in §§ 43-1-105(6), 43-1-414(4), and 43-1-415, C.R.S.

IV. Copies of the Notice, Proposed Rule Revisions, and the Statement of Basis, Purpose & Authority

The notice of hearing, the proposed rule revisions, and the proposed statement of basis, purpose and authority are available for review at CDOT’s website at <https://www.codot.gov/business/rules/proposed-rules>.

If there are changes made to the proposed rule revisions prior to the hearing, the updated proposed rule revisions will be available to the public and posted on CDOT’s website by September 24, 2021.

Please note that the proposed rule revisions being considered are subject to further changes and modifications after the public hearing and the deadline for the submission of written comments.

V. Opportunity to testify and submit written comments

CDOT strives to make the rulemaking process inclusive to all. Everyone will have the opportunity to testify and provide written comments concerning the proposed rule revisions. Interested and affected parties are welcome to testify and submit written comments.

The format of the hearing will proceed as follows:



- The Hearing Officer opens the hearing and provides a brief introduction of the hearing procedures.
- CDOT staff will review exhibits to establish that the CDOT met all the procedural requirements of the Administrative Procedure Act.
- A summary of the proposed rule revisions will be presented by CDOT staff.
- Participants will then have the opportunity to give testimony regarding the proposed rule revisions.
- The Hearing Officer will make certain finding and conclude the hearing.

Testimony

The testimony phase of each hearing will proceed as follows:

- The Hearing Officer will identify the participants who indicated that they plan to testify during the hearing based on the registration records.
- When Hearing Officer exhausts the list, we will ask whether any additional participants wish to testify.

To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Written Comments

All interested and affected parties are strongly encouraged to submit their written comments to dot_rules@state.co.us. All written comments must be received on or before Tuesday, October 05, 2021, at 5 pm.

Additionally, we will post all written comments to CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>. However, please note that we will redact the following information for data privacy from the submissions prior to posting online: first and last names, contact information, including business and home addresses, email addresses, and telephone numbers.

All written comments will be added to the official rulemaking record.

VI. Recording of the Hearings

The hearing will be recorded. After the hearing concludes, the recording will be available on CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

VII. Special Accommodations

If you need special accommodations, please contact CDOT's Rules Administrator at 303.757.9441 or dot_rules@state.co.us at least one (1) week prior to the scheduled hearing date.

VIII. Contact Information

Please contact CDOT's Rules Administrator, at 303.757.9441 or dot_rules@state.co.us if you have any questions.





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2 CCR 601-3

Proposed Statement of Basis and Purpose and Statutory Authority

I. Rules

The rules governing outdoor advertising in Colorado are found at 2 CCR 601-3.

II. Statement of Basis & Purpose

The purpose of these rules is to carry out the provisions of Colorado's Outdoor Advertising Act found at § 43-1-401, *et seq.*, C.R.S., and the Highway Beautification Act of 1965 found at 23 U.S.C. § 131 by establishing a statewide uniform program controlling the use of advertising devices in areas adjacent to the State Highway System. The intent of these rules is to protect and promote the health, safety, and welfare of the traveling public and the people of Colorado, and to promote the reasonable, orderly and effective display of outdoor advertising, while preserving and enhancing the natural and scenic beauty of Colorado.

Senate Bill 21-263 took effect in Colorado on June 30, 2021, changing the permitting and enforcement processes for the control of advertising devices in areas near interstates and state highways and visible to the traveling public from the roadway to a compensation-based approach.

The specific purpose of this rulemaking is to consider changes to align CDOT's processes for permitting and enforcement of outdoor advertising devices with Senate Bill 21-263. Proposed changes include:

- Add, modify, or delete defined terms to aid in the interpretation and implementation of these Rules as follows:
 - Modify the definitions of "Advertising Device" and "Comprehensive Development" to reference the definitions in statute for consistency.
 - Delete the definitions of "Directional Sign", "Off-Premise Sign", "Official Sign", and "On-Premise Sign" to align with Senate 21-263.
 - Add the new definition of "Compensation" to reference the definition in statute for consistency.
 - Delete the definitions of "Commercial Advertising" and "Premises" since they are no longer necessary as a result of Senate Bill 21-263.
 - Modify the definition of "Permit Number Identifier" to align with Senate Bill 21-263.
- Establish a new compensation-based approach within the rules for permitting and enforcement of outdoor advertising devices in areas near interstates and state highways and visible to the traveling public from the roadway.



- Delete the requirements for the previous categories of outdoor advertising devices (i.e., On-Premise Sign, Off-Premise Sign, Official Sign, and Directional Sign) from the rules.
- Clarify CDOT is prohibited from issuing or renewing a permit if the advertising device becomes decay, insecure, or in danger of falling, or unsafe due to lack of maintenance or repair, which mirrors § 43-1-411(5), C.R.S.
- Clarify CDOT will provide the reasons for the denial of the application, the denial of the renewal of the permit, or the revocation of the Permit in writing.
- Modify the noncompliance requirements to give a property owner or sign owner the option to execute an affidavit under the penalty of perjury in the event the property owner or sign owner does not believe their sign is an advertising device requiring a CDOT permit.
- Streamline the hearing procedures and also modify the procedures to allow an applicant who was denied a permit to request an expedited hearing within 30 days of the notice of denial.
- Delete the requirements for signs erected after 1970 advertising necessary goods and services to align with Senate Bill 21-263.
- Delete the requirements for “Landmark Signs” and “Free Coffee Signs”. Landmark signs have not been established Colorado. Free Coffee Signs are set forth in federal law.
- Clarify that Changeable Electronic Variable Message Signs may not be within 1000 feet of each other that are facing the same direction.
- Update the materials incorporated by reference within the rules in accordance with § 24-4-103(12.5), C.R.S.
- Add procedures for interested and affected parties to petition for a declaratory order to increase transparency for the public and be in compliance with the Colorado Administrative Procedure Act. This is a voluntary process that allows for interested and affected parties to obtain a declaratory order on statutes, rules, or orders relating to the control of outdoor advertising in Colorado.
- Make other non-substantive changes to align the rules with Senate Bill 21-263 or fix typographical or grammatical errors.

III. Statutory Authority

The statutory authority is as follows:

- Senate Bill 21-263 enacted into law on June 30, 2021.
- § 43-1-105(6), C.R.S., which authorizes the Executive Director or designee to preside over a hearing whenever CDOT is required by law to hold a hearing.
- § 43-1-414(4), C.R.S., which authorizes CDOT to promulgate rules governing the acquisition procedures for the advertising devices, the appraisal of advertising devices, and the administration and enforcement of outdoor advertising.
- § 43-1-415, C.R.S., which authorizes CDOT to promulgate rules necessary to carry out the provisions of the Outdoor Advertising Act.

