Agency Name: Department of Transportation

Statutory Authority: 57-3-110(8)

Document Number: 4839

Proposed in State Register Volume and Issue: 42/10

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Transportation Committee

120 Day Review Expiration Date for Automatic Approval: 05/08/2019

Final in State Register Volume and Issue: 43/5

Status: Final

Subject: Transportation Project Prioritization

History: 4839

By Date Action Description Jt. Res. No. Expiration Date

- 10/26/2018 Proposed Reg Published in SR

- 01/08/2019 Received by Lt. Gov & Speaker 05/08/2019

H 01/08/2019 Referred to Committee

S 01/08/2019 Referred to Committee

H 03/28/2019 Resolution Introduced to Approve 4369

- 05/08/2019 Approved by: Expiration Date

- 05/24/2019 Effective Date unless otherwise

 provided for in the Regulation

Document No. 4839

**DEPARTMENT OF TRANSPORTATION**

CHAPTER 63

Statutory Authority: 1976 Code Section 57‑3‑110(8)

63‑10. Transportation Project Prioritization.

**Synopsis:**

South Carolina Department of Transportation (SCDOT) proposes to amend Regulation 63‑10 regarding SCDOT’s Transportation Project Prioritization to combine both state funded and federally funded projects in one program document: the “State Transportation Improvement Program” (“STIP”). This change would eliminate the need for a separate “State Program” document. Therefore, the amendments also propose to eliminate references to a separate “State Program.”

A Notice of Drafting for the proposed amendments to Regulation 63‑10 was published in the *State Register* on August 24, 2018. The proposed regulations were published in the *State Register* on October 26, 2018. No comments were received or hearing requested. The SCDOT Commission approved the final amendments on December 6, 2018.

**Instructions:**

Print Regulation 63-10 as shown below.

**Text:**

63‑10. Transportation Project Prioritization.

 A. Definition of Terms.

 1. “Commission” means the governing board of the Department of Transportation.

 2. “Council of Government (“COG”)” means the entity organized pursuant to S.C. Code Section 6‑7‑110 and designated to carry on the continuing, comprehensive, cooperative transportation planning process for a rural area.

 3. “Department” or “SCDOT” means the South Carolina Department of Transportation.

 4. “Metropolitan Planning Organization (“MPO”)” means the entity designated to carry on the continuing, comprehensive, cooperative transportation planning process for an urbanized area in accordance with 23 USCA 134 and applicable regulations.

 5. “Project priority lists” means priority ranking of projects within program categories proposed for inclusion in the State Transportation Improvement Program (“STIP”). The priority lists shall be established by the Commission based upon engineering recommendations and advice, application of the relevant criteria set out in S.C. Code Section 57‑1‑370 (B)(8), and any other criteria that supports the purpose and need for the projects in each program category.

 6. “Secretary” means the Secretary of Transportation of the Department.

 7. “State Highway Engineer” means the deputy director of the division of engineering of the Department.

 8. “State Highway System” means the system of roads that the Department is responsible for maintaining pursuant to Section 57‑5‑10 of the S. C. Code of Laws, 1976, as amended.

 9. “Statewide Multimodal Transportation Long Range Plan” (“Multimodal Plan”) is a long‑range statewide transportation plan with a minimum 20‑year forecast period at the time of adoption that provides for the development and implementation of the multimodal transportation system for the State as required by Section 57‑1‑370(A). It shall be consistent with federal planning requirements. It includes by reference all applicable plans, policies or reports relevant to the development of the plan. Projects from the Multimodal Plan may be ultimately included in the STIP.

 10. “Statewide Transportation Improvement Program (“STIP”)” means a comprehensive prioritized program of state and federally funded transportation projects or phases of projects and other regionally significant projects. The STIP must cover a period of at least four years and must be updated at least once every four years. The STIP must be consistent with the Multimodal Plan and MPO Transportation Improvement Programs (“TIPs”). All federally funded projects and/or categories of projects are required to be included in the STIP in order to be eligible for federal funds pursuant to Title 23 and Title 49, Chapter 53 of the United States Code.

 11. Transportation Asset Management Plan (“TAMP”) is a performance and risked based decision making tool designed to assist the Department in analyzing long‑term system performance and condition to guide investment decisions. The TAMP is based on a 10‑year horizon. It includes objectives and performance measures for preservation and improvement of the State Highway System. It is used to establish fiscally constrained performance goals for transportation infrastructure assets such as pavements and bridges.

 B. The Statewide Multimodal Transportation Long Range Plan (“Multimodal Plan”).

 1. The Multimodal Plan will be updated approximately every five years, or more frequently if deemed appropriate by the Commission. The plan will be developed in accordance with all applicable federal guidelines and regulations, including a minimum 20‑year forecast period estimating future transportation needs and projected costs. It will include goals and objectives for long‑term strategies for addressing transportation needs across the State.

 2. The Multimodal Plan will be subdivided into at least the following categories:

 a. bridges;

 b. interstates;

 c. pavements;

 d. mass transit;

 e. statewide significant corridors;

 f. passenger and high speed rail;

 g. rail corridor preservation;

 h. non‑motorized transportation modes;

 i. State Strategic Highway Safety Plan;

 j. MPO long‑range plans;

 k. COG long‑range plans; and

 l. statewide plan for 20‑year routine maintenance needs.

 3. The Multimodal Plan will include a public involvement plan providing for multiple opportunities for input by an advisory task force or committee, COG or MPO, transportation user groups and the general public. A copy of the draft plan will be made available to the public for review and comment at each engineering district office and COG office.

 4. The Secretary of Transportation will present the Multimodal Plan to the Commission for approval along with all comments received. After approval by the Commission, the final Multimodal Plan will be published on the SCDOT website. The Multimodal Plan may be revised from time to time as permitted by federal law or regulation.

 C. Project Priority Lists.

 1. The Commission shall establish project priority lists for each program category proposed to be included in the STIP. The Secretary shall present a recommendation for Commission approval using a detailed analysis and evaluation applying the specific criteria applicable to each program category. Local option sales tax projects and projects funded solely by C‑Funds are excluded from the project prioritization process established by S.C. Code Section 57‑1‑370(B)(8).

 2. The project priority lists provide information to the Commission and the public. The order in which projects appear in the priority lists is the order in which those projects will be placed in the STIP unless the Commission provides a written justification based upon circumstances that warrant a deviation from the established order on the lists. The circumstances upon which the Commission may deviate from the lists are significant financial or engineering considerations, delayed permitting, force majeure, pending legal actions directly related to the proposed project that is bypassed, federal law or regulation, or economic growth.

 3. The State Highway Engineer shall develop a ranking process for applying uniform and objective criteria applicable to each program category. The ranking processes will be described in engineering directives issued by the State Highway Engineer. The ranking processes shall list the criteria to be considered in each program category, and include a methodology for applying the criteria and the weight to be accorded each criterion where applicable. The criteria shall include any criteria listed in S.C. Code Section 57‑1‑370 (B)(8) which is relevant to the program category and any other criteria relevant to the program category.

 4. In program categories where evaluating environmental impacts is an approved criterion for prioritization, environmental impacts to be evaluated should consider the potential adverse effects of the project on natural resources.

 5. Alternative transportation solutions will be considered as a part of the environmental review process rather than during the project prioritization process.

 6. Local land use plans will be considered as part of the long range planning process rather than during the project prioritization process.

 7. In program categories where evaluating potential for economic development is an approved criterion for prioritization, the evaluation of potential economic development will include a consultation with the Department of Commerce as well as the use of transportation economic development models.

 8. Financial viability, including a life cycle analysis of estimated maintenance and repair costs over the expected life of the project, will be considered in the development of the TAMP rather than during the project prioritization process.

 D. Statewide Transportation Improvement Program.

 1. A draft of a new STIP or any revision to the STIP to adjust category or project information relating to cost, schedule, scope, and priority will be prepared under the direction of the Secretary of Transportation and presented to the Commission for consideration and approval. The draft STIP will include fiscally constrained project cost and schedule information for the reporting period and will be based on estimated federal‑aid and state funding levels by program. The draft STIP will be made available to the public for review and comment at each SCDOT district office and at the COG offices.

 2. The draft STIP will be presented to the Commission for review along with any relevant project priority rankings, the recommendations of local transportation technical committees, and all public comments received. The Secretary may make recommendations to the Commission regarding any funding changes to the annual allocation plan resulting from federal or state legislation.

 3. The STIP adopted and approved by the Commission will reflect Commission decisions on the overall funding distribution for the federal‑aid and state funded programs during the years covered by the STIP. After approval by the Commission the STIP will be submitted to the Federal Highway Administration and the Federal Transit Administration for final approval and published in the SCDOT website.

**Fiscal Impact Statement:**

SCDOT does not anticipate additional costs to the State or its political subdivisions to comply with the proposed amendments to the regulations.

**Statement of Rationale:**

The purpose of the proposed amendments is to redefine the State Transportation Improvement Program (“STIP”) to include state‑funded projects as well as federally funded projects. Currently the regulations provide for two different program documents: (1) the STIP, containing federally funded projects, and (2) the State Program, containing state funded projects. The amendments will redefine the STIP as a “comprehensive” prioritized program of projects including both state and federally funded projects.