

**Air Quality  
State Implementation Plan Revisions  
Report**

Submitted pursuant to the provisions of

**C.R.S. 25-7-133**

**Submitted to the Colorado Legislature  
by the Air Quality Control Commission  
January 15, 2007**

## **Introduction**

The Colorado Air Quality Control Commission appreciates the opportunity to submit the following report describing the revisions made to the air quality State Implementation Plan (SIP), pursuant to the provisions of 25-7-133, C.R.S. This report describes four actions taken to revise the State Implementation Plan in the period from January 2005 through December 2005. This report also lists the statutory language that identifies the requirements for making the report to the legislature and the requirements of the report's content.

## **Requirement**

25-7-133. Legislative review and approval of state implementation plans and rules - legislative declaration.

(1) Notwithstanding any other provision of law but subject to subsection (7) of this section, by January 15 of each year the commission shall certify in a report to the chairperson of the legislative council in summary form any additions or changes to elements of the state implementation plan adopted during the prior year that are to be submitted to the administrator for purposes of federal enforceability. Such report shall be written in plain, nontechnical language using words with common and everyday meaning that are understandable to the average reader. Copies of such report shall be available to the public and shall be made available to each member of the general assembly. The provisions of this section shall not apply to control measures and strategies that have been adopted and implemented by the enacting jurisdiction of a local unit of government if such measures and strategies do not result in mandatory direct costs upon any entity other than the enacting jurisdiction.

(2) (a) By the February 15 following submission of the certified report under subsection (1) of this section, any member of the general assembly may make a request in writing to the chairperson of the legislative council that the legislative council hold a hearing or hearings to review any addition or change to elements of the SIP contained in the report submitted pursuant to subsection (1) of this section. Upon receipt of such request, the chairperson of the legislative council shall forthwith schedule a hearing to conduct such review. Any review by the legislative council shall determine whether the addition or change to the SIP element accomplishes the results intended by enactment of the statutory provisions under which the addition or change to the SIP element was adopted. The legislative council, after allowing a public hearing preceded by adequate notice to the public and the commission, may recommend the introduction of a bill or bills based on the results of such review. If the legislative council does not recommend introduction of a bill under this subsection (2), the addition or change to the SIP element may be submitted under paragraph (b) of this subsection (2). Any bill recommended for consideration under this subsection (2) shall not be counted against the number of bills to which members of the general assembly are limited by law or joint rule of

the Senate and the House of Representatives. If the legislative council does not recommend the introduction of a bill under this paragraph (a), and the member or members of the general assembly that requested such review will be introducing a bill under the provisions of paragraph (c) of this subsection (2), any such member shall provide written notice to the chairperson of the legislative council within three days after the action by the legislative council not to recommend introduction of a bill. If such member or members provide such written notice, the addition or change to the SIP or any element thereof that is the subject of any such bill may not be submitted to the administrator of the federal environmental protection agency until the expiration of the addition or change to the SIP has been postponed by the general assembly acting by bill or the member or members provide written notice to the chairperson of the executive committee of the legislative council that no bill will be introduced.

(b) Unless a written request for legislative council review of an addition or change to a SIP element is submitted by the February 15 following submission of the report under subsection (1) of this section, or a notice is provided by a member or members that they are introducing a bill under paragraph (c) of this subsection (2) within three days after legislative council action not to introduce a bill under paragraph (a) of this subsection (2), all other additions or changes to a SIP element described in such report shall be submitted to the administrator for final approval and incorporation into the SIP.

(c) Until such February 15 as provided in paragraph (b) of this subsection (2), the commission may only submit an addition or change to the SIP or any element thereof, as defined in section 110 of the federal act, any rule which is a part thereof, or any revision thereto as specified in subsection (1) of this section to the administrator for conditional approval or temporary approval. If legislative council review is requested as to any addition or change to a SIP element under paragraph (a) of this subsection (2), then no such SIP, revision, rule required by the SIP or revision, or rule related to the implementation of the SIP or revision so submitted to the administrator may take effect for purposes of federal enforceability, or enforcement of any kind at the state level against any person or entity based only on the commission's general authority to adopt a SIP under section 25-7-105 (1), unless expiration of the SIP, rule required for the SIP, or addition or change to a SIP element has been postponed by the general assembly acting by bill in the same manner as provided in section 24-4-103 (8) (c) and (8) (d), C.R.S. Any member of the general assembly may introduce a bill to modify or delete all or a portion of the SIP or any rule or additions or changes to SIP elements which are a component thereof. Any bill introduced under this paragraph (c) shall not be counted against the number of bills to which members of the general assembly are limited by law or joint rule of the senate and the house of representatives. Any committee of reference of the senate or the house of representatives to which a bill introduced under this paragraph (c) is referred shall conduct as part of consideration of any such bill on the merits the review provided for under paragraph (a) of

this subsection (2). If any bill is introduced under paragraph (a) of this subsection (2) or under this paragraph (c) to postpone the expiration of any addition or change to a SIP element described in a report submitted under subsection (1) of this section or paragraph (d) of this subsection (2), and any such bill does not become law, the addition or change to a SIP element addressed in such bill may be submitted to the administrator of the federal environmental protection agency for final approval and incorporation into the SIP under paragraph (b) of this subsection (2).

### **State Implementation Plan Revisions**

#### **1. Common Provisions Regulation and Regulation Number 3**

On August 17, 2006 the Commission adopted a proposal to remove methyl-ethyl ketone from the list of hazardous air pollutants. Methyl-ethyl ketone is a chlorinated solvent frequently used in cleaning operations. Air pollutant emissions of methyl-ethyl ketone will continue to be regulated as a volatile organic compound (VOC). The removal of methyl-ethyl ketone from the list of hazardous air pollutants makes the rule consistent with the federal program and is based on the federal research into the nature of methyl-ethyl ketone. The proposal adopted by the commission also deleted the solvent tertiary-butyl acetate from the list of volatile organic compounds. Tertiary-butyl acetate emissions will continue to be tracked, but will not be required to be controlled. The removal of tertiary-butyl acetate from the list of volatile organic compounds makes the rule consistent with the federal program and is based upon the federal research into the nature of tertiary-butyl acetate.

#### **2. Regulation Number 1: Particulate Matter, Smoke, Carbon Monoxide and Sulfur Oxides; Regarding Requirements for Air Curtain Destructors**

On September 21, 2006 the Commission considered and adopted a proposal to remove a requirement for performance or emission point testing of air curtain destructors. The air curtain destructor is a type of combustion incinerator that operates with an open top and does not inherently have a stack to pass emissions through and therefore, emission point testing requirements are inappropriate. The commission has adopted design and operational requirements for air curtain destructors and inadvertently applied performance testing requirements for incinerators to air curtain destructors. This revision eliminates the performance testing requirements for air curtain destructors and makes the Commissions' requirements consistent with federal requirements.

3. Common Provisions Regulation, Regarding Provisions Related to Upset Conditions at Stationary Sources

On December 15, 2006 the Commission considered and adopted a proposal to revise the requirements of the rule regarding upset conditions and malfunctions at stationary industrial sources of air pollutants. The Commission rules recognize that stationary sources will occasionally malfunction and the malfunction could result in excess air pollutant emissions. The provisions adopted by the Commission clarify the process by which a source must identify an upset or malfunction condition at their facility. The Commission changed the term “upset” to “malfunction” for purposes of consistency with the federal program. The Commission adopted several conditions that a stationary source must meet to determine that it is experiencing a “malfunction” of its operation. The air division previously implemented many of these conditions on a policy basis in their execution of the requirements. The Commission also adopted revisions to the rule to clarify that an affirmative defense is available to claims of a violation and assessment of civil penalties in enforcement actions regarding excess emissions arising from malfunction conditions. The affirmative defense is a defense against legal action directed at the stationary source if the source meets the requirements of the conditions to determine that they were experiencing malfunction conditions. The affirmative defense is not available to a claim of violation of the rule in regards to any party seeking injunctive relief or a court order to cease operations.

4. Regulation Number 7: Emissions of Volatile Organic Compounds; Regarding Emissions from Oil & Gas Operations and Ozone Early Action Compact

On December 17, 2006 the Commission adopted a set of requirements to reduce the emissions from oil and gas exploration and production activities. The Commission adopted two separate proposals: 1) for the Denver and northern Front Range region and 2) a set of requirements to reduce emissions on a statewide basis. Both sets of requirements focus on the reduction of ozone precursor emissions or volatile organic compounds (VOCs) from oil and gas condensate storage tanks. However, the statewide rule requirements also include provisions to reduce emissions from compressor engines and natural gas dehydrators. Condensate is simply the oil and gas liquids that are generated from the production of an oil & gas well.

Denver/North Front Range Rule: The Commission adopted a proposal to increase the emission reduction requirement from oil and gas condensate storage tanks from 47.5% to 75% in 2007 and 78% in 2012. The requirements adopted by the Commission for

the Denver area include additional control equipment monitoring to ensure proper functioning, and additional record-keeping and reporting requirements. These additional requirements were adopted to return the Denver/North Front Range region to a state of ensured, long-term compliance with the national standard for ozone.

Statewide Rule: The Commission also adopted a set of requirements to apply to all oil & gas exploration and production operations on a statewide basis. These requirements were adopted by the Commission to prevent future air quality problems from developing in other areas of the State. The statewide requirements apply to condensate storage tanks, natural gas dehydrators, and natural gas fired engines. The Commission adopted a requirement for condensate storage tanks that emit more than 20 tons per year of volatile organic compounds (VOCS) to install controls that meet 95% emission reduction efficiency. These control devices would likely be combustion flares to destroy the VOC emissions from the tanks. The Commission adopted a requirement for natural gas dehydrators that emit more than 15 tons per year of VOCs to install emission controls that operate at 90% emission reduction efficiency and these would also likely be combustion flares. The Commission also adopted a set of emission standards for natural gas fired engines for engines from 100 to 500 horsepower and then for engines above 500 horsepower. The requirements for engines apply to newly installed engines starting in 2007 and do not apply to existing engines.