

**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, 2008**

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 2007 through December 2007. 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. Interstate Air Pollutant Transport State Implementation Plan

On February 15, 2007, the Commission adopted a proposal to revise the Colorado State Implementation Plan to affirm that air pollutant emissions generated in Colorado do not contribute significantly to PM_{2.5} and 8-hour ozone non-attainment areas or interfere with long term compliance of these national standards in any other state. The proposal was adopted to provide EPA with a demonstration that Colorado's air quality management program meets the requirements of the Clean Air Act Section 110 (a)(2)(D)(i) - Interstate Transport. The Denver area is the only area in EPA Region VIII that is nonattainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The proposal relied upon existing technical analyses for ozone and PM_{2.5} management programs and EPA's Air Quality System (AQS) database to show that all areas outside of Colorado comply with the ozone and PM_{2.5} NAAQS that may be influenced by Colorado and northern Front Range air pollutant emissions.

2. Regulation Number 11: Vehicle Emissions Inspection Program

On June 21, 2007 the Commission adopted a proposal to revise the rules for the Clean Screen/Remote Sensing Program to allow the use of a low emitting vehicle index and one valid passing remote sensing reading to characterize vehicle emissions as clean and exempt them from the requirements to pass an emissions test at a designated testing facility. Vehicles will continue to be exempted if two or more valid passing remote sensing readings are recorded, but the adoption by the Commission provides the option of exempting more vehicles from the program and increasing motorist convenience. The proposal adopted by the Commission will have no loss of air quality benefit from the program. The use of the low emitting vehicle index will help fulfill the legislative intent of HB06-1302 and focus additional remote sensing resources on identifying high emitting vehicles.

3. Regulation Number 3: Stationary Source Air Pollutant Emission Fee Increase
On October 18, 2007, the Commission adopted a proposal to return the annual emission fees to the statutory maximum allowed in Section 25-7-114.7, C.R.S. The increase in fees was proposed to fund legislatively approved FTE in the Air Pollution Control Division for addressing stationary source permitting and air quality monitoring workloads. The fee increases were for Criteria pollutants; from \$16.54 per ton emitted to \$17.97 per ton emitted, and Hazardous Air Pollutants; from \$114.96 per ton emitted to \$119.96 per ton emitted. The increase in fees will generate an estimated additional \$351, 635 per year.

4. Regional Haze State Implementation Plan & Regulation Number 3: Stationary Source Permitting
On December 21, 2007, the Commission adopted a Regional Haze element to the Colorado State Implementation Plan (SIP) and revisions to its Regulation Number 3 to adopt emission limitations for facilities subject to the Best Available Retrofit Technology (BART) emission reduction requirements of the federal regional haze rule. The proposal adopted by the Commission is in partial fulfillment of the federal regional haze rule requirements promulgated by U.S. EPA in 1999 to achieve natural visibility conditions in National Parks and Wilderness Areas across the country over a 60-year timeframe. The SIP adopted by the Commission sets forth the technical foundation of the overall program incorporating the determination of baseline and natural conditions for each of the 12 covered areas, or Class I areas, in Colorado. It documents the visibility monitoring data that the program will be based on, the modeled impacts of specific air pollutant emissions on each of the Class I areas, the amount of visibility impact from Colorado source categories as well as source categories outside the state, and the requirements to install and operate Best Available Retrofit Technology (BART) emission controls at federally specified sources. The SIP adopted by the Commission also includes a long-term strategy to address visibility impairment in the future and a commitment to consult with other states, federal land managers and to evaluate the progress of the plan over the program time period. The SIP adopted by the Commission sets forth a presumptive rate of visibility improvement at each Class I area over the intended 60-year life of the program. The SIP adopted by the Commission will be amended in the 2008/2009 timeframe to include additional air pollutant emission reduction requirements that are required by the federal program to help achieve the first step toward the presumptive rate of visibility improvement at each of the Class I areas.