

**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, 2009**

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 eight actions taken by the Commission to revise the federally enforceable 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

The Commission adopted seven separate proposals to revise the Colorado State Implementation Plan (SIP) in 2008 that are proposed for submission to the US EPA to be made federally enforceable. The actions of the Commission are discussed below pursuant to the provisions of 25-7-133(1) C.R.S.

1. Regulation Number 3, Regarding Stationary Industrial Source Emission Fees

On September 18, 2008 the Commission adopted a proposal to increase the fees charged to stationary industrial sources for emissions of regulated air pollutants to reflect the changes that the legislature made to the air pollutant emission fees in SB 08-055. Air pollution emission fees are charged to stationary industrial sources based on the number of tons of regulated pollutant emitted into the air on an annual basis. The Commission increased the fees for Criteria Pollutants and hazardous air pollutants. There are eight Criteria pollutants; Carbon Monoxide, Sulfur Dioxide, Nitrogen Dioxide, 1-Hour Ozone, 8-Hour Ozone, Particulate Matter 10 microns or less (PM10), Particulate Matter 2.5 microns or less (PM2.5) and Lead. There is a federal list of 189 hazardous air pollutants in section 112(b) the Clean Air Act and also contained in §25-7-109.3 C.R.S. The Criteria Pollutant fees increased from \$17.97 per ton to \$22.90 per ton and the hazardous air pollutant fees increased from \$119.96 per ton to \$152.90 per ton. The State statutory fees were last increased in 2001. The new fee increase will fund additional FTE authorized by the legislature, additional legislatively directed air quality monitoring, and will cover current federal grant reductions that are needed to continue implementation of the program. The Air Pollution Control Division estimates that, based on the current air pollutant emission inventory, the increased fees will generate approximately \$1.09 million per year.

2. Regulation Number 11, Regarding the Motor Vehicle Emissions Inspection Program

On October 16, 2008, the Commission adopted a proposal to revise the emission control systems inspection procedures for 1996 and newer model year vehicles, and to eliminate obsolete provisions for gasoline filler neck inspections and chlorofluorocarbon leak check

requirements. The elimination of the CFC inspection was adopted because the use of chlorofluorocarbons (CFC) as refrigerants in motor vehicles has been banned since 1996 and the inspection for CFC leaks has only been an advisory notice to the vehicle owner. Elimination of the leak check requirements was also seen as a way to decrease motorist wait times at inspection stations during vehicle testing.

Gas tank filler neck ports were reduced in size during the phase out of leaded gasoline in the 1980's. Gas tank filler neck inspections have been a longstanding requirement of the program because leaded gasoline contaminates the emission control equipment and significantly reduces its effectiveness. The Commission adopted the elimination of this requirement because the use of leaded gasoline has been phased out of use for motor vehicles for many years.

Since the 1996 model year, all vehicles have been equipped with "On-Board Diagnostic" (OBD) systems that trigger the malfunction indicator light (MIL or check engine light) on the vehicle dashboard if there is an emission control system failure. Unless the MIL is triggered, visual inspection procedures are not necessary to identify tampering with the emission control system. Accordingly, the Commission adopted regulatory changes requiring visual inspections of 1996 and newer vehicles only when the MIL is illuminated. The repeal of the emission control system visual inspection procedures for 1996 and newer vehicles is projected to have no loss of air quality benefit from the program, should allow for a greater time for inspection of pre 1996 vehicle emission control systems and should reduce motorist wait times at emission testing centers.

3. Regulation Number 10, Regarding Transportation Conformity

On November 20, 2008, the Commission adopted a proposal to revise the regulation to include changes that the US EPA has made to the federal program that reflect changes in federal transportation legislation. The Commission adopted revisions to the regulation that require the transportation planning agency, such as the Denver Regional Council of Governments, to obtain and ensure the fulfillment of written commitments to implement emission control measures not included in transportation plans such as commitments from units of local government and to obtain and ensure the fulfillment of written commitments to transportation project mitigation measures such as commitments from transportation project contractors. These are not new federal provisions, but the requirement to include these provisions in a State Implementation Plan and make them state enforceable is a new federal requirement. The Commission also adopted federal provisions requiring procedures for public consultation for agencies making transportation conformity determinations and procedures for conflict resolution between participating agencies.

4. Canon City PM10 Maintenance Plan

On November 20, 2008, the Commission adopted a proposal to revise the Canon City PM10 (particulate matter 10 microns and less) element of the State Implementation Plan to satisfy the federal requirement for demonstrating long term compliance with the national standard for a second ten-year period after the area has been shown that it can achieve and maintain long-term compliance with the national standard. The national standard for PM10 is 150 micrograms per cubic meter. Future projections for Canon City indicate that the area will have ambient concentrations of PM10 at 70.9 micrograms per cubic meter in the year 2020. Given this projection the Commission adopted a proposal to remove the street sweeping requirements in the contingency plan and increased the mobile source emissions budget to make transportation planning analyses and tests a less burdensome requirement.

5. Regulation Number(s) 3, 7, 11, Ambient Air Quality Standards and Ozone State Implementation Plan Element Regarding Long Term Compliance with the National 8-Hour Ozone Standard

On December 12, 2008 the Commission adopted a State Implementation Plan element and a set of requirements to ensure compliance with the 1997 National Ambient Air Quality Standard for 8-Hour Ozone set at 0.08 ppm (parts per million) by the end of 2010. The Commission acted to adopt new requirements to be included in the federally enforceable State Implementation Plan as well as adopted requirements that were reserved for state-only enforcement purposes.

For purposes of the State Implementation Plan the Commission adopted requirements to further reduce the emissions of volatile organic compounds from the oil & gas industry's condensate storage tanks and to eliminate exemptions for several oil & gas operations requiring them to report their emissions and permit their activities. The controls for condensate storage tanks were adopted on a phased in schedule and increase the level of control from the current system-wide 75% level of emission reduction to a system-wide 81% level of emission reduction by May 1, 2009, then to a system-wide 85% level of emission reduction by May 1, 2010 and finally to a system-wide 90% level of emission reduction by May 1, 2011. The oil & gas industry exemptions that were eliminated were for petroleum industry flares, crude oil truck loading equipment, oil & gas production wastewater storage tanks, crude oil storage tanks, surface water storage impoundments, and condensate storage tanks with a production of 730 barrels per year or less. The Commission expanded the requirement to apply Reasonably Available Control Technology equipment (RACT) to stationary industrial sources emitting over 100 tons per year and to implement US EPA Control Technique Guidelines (CTG's) for major and minor stationary industrial sources. These requirements were expanded from their existing application in the seven

county, Denver metropolitan area to include portions of Larimer County, east of the continental divide, and the central and southern portions of Weld County that have been included in the 8-Hour Ozone nonattainment area. The Commission also adopted an emission budget for volatile organic compounds (VOC) from on-road mobile sources in compliance with federal requirements for transportation planning. The emission budget is a level of mobile source VOC emissions that cannot be exceeded as metropolitan planning organizations work to develop their transportation plans documenting that the implementation of new transportation projects does not cause or contribute to a violation of the national standard for ozone.

In addition, the Commission adopted several requirements that were reserved for purposes of state only enforceability and will not be submitted to US EPA. These requirements will help ensure that the nonattainment area will achieve compliance with the national 8-Hour Ozone standard in 2010 and provide appropriate lead time for the implementation of programs that will be relied upon for demonstrating compliance with the new, more stringent, federal 8-Hour Ozone standard. The Commission expanded the vehicle emissions testing program that currently operates in the Denver metropolitan area to those portions of Larimer and Weld Counties in the federally defined, 8-Hour Ozone nonattainment area, adopted a requirement to replace most of the “high bleed” natural gas actuated valves used in the oil & gas industry to “low bleed” or “no-bleed” valves, expanded the requirement to control emissions from internal combustion engines used in the oil & gas industry from just the Denver Metropolitan and North Front Range 8-Hour Ozone nonattainment area to the entire state, and adopted a requirement to check the operation of flares used to reduce emissions on a daily basis. The Commission also adopted additional monitoring and record keeping requirements for oil & gas industry sources.

6. Interstate Air Pollutant Transport State Implementation Plan

On December 12, 2008, the Commission adopted a proposal to revise the ozone interstate transport element of the State Implementation Plan to address outstanding issues that the Environmental Protection Agency had identified with the original plan adopted by the Commission in February 2007. The Commission acted to include the ozone monitoring results from the 2008 summertime ozone season for the Denver Metropolitan and North Front Range Area that identified the violations of the national 8-Hour Ozone standard that were recorded. The Commission also adopted a further explanation of why the Denver Metropolitan and North Front Range nonattainment area does not contribute significantly to any downwind area’s violation of the national standard for 8-Hour Ozone. The Denver Metropolitan and North Front Range Area will achieve compliance with the 8-Hour Ozone standard in 2010 and the compliant nature of the area will eliminate any significant impact that it may have in other states.

7. Regulation Number 3 Regarding Regional Haze Requirements for Stationary Source Permitting

On December 19, 2008, the Commission adopted a set of Best Available Retrofit Technology (BART) requirements for the Colorado Springs Utilities and the CEMEX-Lyons Cement Plant pursuant to the provisions of the federal regional haze rule. The federal regional haze rule requires facilities that commenced construction between 1962 and 1977 to analyze, install and operate the Best Available Retrofit Technology emission control equipment considering specific facility factors. The Commission adopted emission reduction requirements for the Colorado Springs Utilities' three coal fired power plant units; Martin Drake Unit #s 5, 6 and 7, for the pollutants nitrogen oxides (NOx) and sulfur oxides (SOx). The Commission adopted the emission reduction requirements pursuant to the analysis provided by Colorado Springs Utilities and approved by the Air Pollution Control Division. The emission controls at the Colorado Springs Utilities' facility will reduce the emissions of NOx through the use of Low NOx Burner and Over Fire Air technology by 11%. The emission controls at the Colorado Springs Utilities facility will reduce the emissions of SOx by 68% through the use of Lime Spray Dryer technology. For the CEMEX-Lyons Cement Plant the Commission adopted requirements for the facility to reduce their emissions of nitrogen oxides by 50% on an annual basis and 40% on a monthly basis pursuant to the analysis provided by the CEMEX facility and approved by the Air Pollution Control Division. The analysis provided by the CEMEX-Lyons Cement Plant identified that the use of Selective Non-Catalytic Reduction (SNCR) technology would be the Best Available Retrofit Technology to reduce emissions of NOx and that the process of making cement would sufficiently capture SOx such that end of process controls would be unnecessary.