

**Air Quality
State Implementation Plan Revisions
Report**

Submitted pursuant to the provisions of

C.R.S. 25-7-133

**Submitted to the Colorado Legislative Council
By the Air Quality Control Commission
January 14, 2011**

INTRODUCTION

Under the Colorado Air Pollution Prevention and Control Act, the Colorado Air Quality Control Commission (AQCC or Commission) is charged with the development of a comprehensive state implementation plan (SIP), which will assure attainment and maintenance of National Ambient Air Quality Standards and other aspects of the federal Clean Air Act. This plan must meet all the requirements of the federal Clean Air Act and shall be revised when necessary and appropriate. See § 25-7-133, C.R.S. As required by the Clean Air Act, any revisions to Colorado's SIP must be submitted to the United States Environmental Protection Agency (EPA) for review and approval. Under state law, prior to submitting any SIP revisions to EPA, and by January 15th of each year, the Commission must submit a report to the legislature summarizing any changes or additions to the SIP. See § 25-7-133, C.R.S. Pursuant to this statutory directive the Commission submits the following report describing its revisions to Colorado's SIP.

STATUTORY REQUIREMENT

Section 25-7-133(1), C.R.S. sets forth the requirements governing the AQCC's annual SIP Revisions Report to the legislature as follows:

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.

STATE IMPLEMENTATION PLAN REVISIONS

The Commission adopted the following revisions/additions to Colorado's State Implementation Plan, which are being submitted for legislative review pursuant to Section 25-7-133(1), C.R.S.:

1. State Implementation Plan Provisions Governing Colorado's Stationary Source Permitting Program

On February 21, 2008, the AQCC adopted revisions to AQCC Regulation Number 3 modifying the permitting requirements for stationary sources in Colorado. Although these revisions were adopted in 2008 they were inadvertently omitted from the 2009 SIP Summary Report to the Legislature and have not yet been sent to EPA for approval and incorporation into the SIP.

These revisions established permitting requirements for particulate matter of 2.5 microns or less in size (PM_{2.5}) in response to the promulgation of the National Ambient Air Quality Standard for PM_{2.5}. The revisions set the permitting threshold for PM_{2.5} at the same level as the threshold for PM₁₀ emissions, which were already required to be permitted under the existing SIP. Accordingly, since PM_{2.5} emissions are a subset of PM₁₀ emissions, the revisions do not require the permitting of any additional particulate matter sources. While not impacting any new sources, the revisions are an integral part of refocusing requirements on smaller particulates, which pose a greater risk to human health than more coarse particulates.

In addition to adding PM_{2.5} emission permitting requirements, the revisions re-inserted provisions within Regulation No. 3 that were inadvertently omitted during a 2004 rulemaking proceeding and corrected several typographical, grammatical and formatting errors.

2. State Implementation Plan Provisions Governing Colorado's Stationary Source Permitting Program

On October 21, 2010, the Commission revised AQCC Regulation Number 3 and the AQCC Common Provisions Regulation to incorporate greenhouse gas permitting requirements for stationary sources in Colorado. These requirements were established so as to ensure that only the very largest emitters are impacted.

As a result of recently adopted federal regulatory requirements, commencing January 2, 2011, greenhouse gas sources throughout the country are required to obtain air quality permits under the federally mandated Title V and New Source Review (NSR) permitting programs. Colorado operates these programs under the authority and requirements of the federal Clean Air Act. Based on pre-existing permitting thresholds for these permit programs set forth in AQCC Regulation Number 3, stationary sources in Colorado that emit 100 tons per year or more of any greenhouse gas would require major source permits under the Title V permitting program, and new or modified sources emitting 250 tons per year or more of greenhouse gas would require NSR permits as early as January 2, 2011. While these are appropriate thresholds for emissions of traditionally regulated pollutants such as nitrogen oxides (NO_x) or sulfur dioxide (SO₂), they should not be applied to greenhouse gas emission sources. Greenhouse gases (primarily carbon dioxide (CO₂)) are emitted at much higher levels than traditional pollutants. Accordingly, application of existing thresholds to greenhouse gas sources would require permitting of thousands of

very small emission sources, create undue burdens for these sources, and overwhelm the resources of Colorado's Air Pollution Control Division (Division). In fact, the Division has estimated that applying existing permitting thresholds of 100/250 TPY to greenhouse gas emitters in Colorado would result in over 33,000 additional Title V permit applications per year, and over 1,200 additional NSR permit applications. To put this in perspective, for 2009 Colorado received 82 Title V permit applications and 3 NSR permit applications.

To avoid these impacts, the Commission raised the greenhouse gas emission thresholds for Title V and NSR permits to 100,000 tons per year of greenhouse gas emissions for sources that are not currently permitted under these programs. For sources that are subject to NSR permitting based on their emission of traditionally regulated pollutants, the greenhouse gas permitting threshold has been set at 75,000 tons per year. These are the least stringent permitting thresholds allowed for under federal law. Based on the Division's analysis, permitting greenhouse gas emissions at these levels will result in 3 additional Title V permit applications per year, and one additional NSR permit application approximately every 10 years.

In addition to significantly raising the permitting thresholds for greenhouse gas emissions, the Commission adopted conforming changes necessary to implement these new thresholds. The Commission also added regulatory language clarifying that sources are not subject to annual emission fees for greenhouse gas emissions, and corrected typographical, grammatical, and formatting errors. Finally, given the pending federal judicial actions challenging EPA's greenhouse gas regulation, as well as possible Congressional action that could impact the greenhouse gas permitting requirements that became effective on January 2, 2011, the Commission added a rescission clause. This clause provides that in the event of Congressional or federal judicial action staying, overturning or otherwise rendering federal requirements for the regulation of greenhouse gas emissions ineffective, greenhouse gas emissions in Colorado will not be subject to regulation.

While not necessarily supportive of the new federal requirements for greenhouse gas permitting, all the parties to the rulemaking proceeding, including the industry parties, supported the regulatory revisions that the Commission adopted. During the rulemaking hearing, these parties specifically recognized that the adopted revisions were necessary to avoid the draconian results from permitting Colorado's greenhouse gas emissions sources at existing pollutant permitting thresholds.

3. Aspen PM10 Maintenance Plan

On December 16, 2010, the Commission adopted revisions to the Aspen PM10 Maintenance Plan. Under the Clean Air Act, areas that were in violation of a National Ambient Air Quality Standard (NAAQS) for a given pollutant, and that subsequently

achieved compliance, must demonstrate ongoing compliance with that NAAQS for a period of 20 years. To assure such ongoing compliance, states must develop a maintenance plan demonstrating how such ongoing compliance will be achieved. Maintenance plans must be revised after ten years.

The revised Aspen PM10 Maintenance Plan is the required 10 year update for the Aspen area. The revised plan includes updated PM10 monitoring data showing ongoing compliance with the federal PM10 standard. Given the ongoing compliance, no new control strategies are included in the plan. Updated mobile source emission inventories are included in the revised plan reflecting the latest mobile source emission modeling tool. Both the City of Aspen and Pitkin County submitted letters endorsing the proposed revisions. There were no adverse comments to the proposed revisions during the public hearing process.

4. Fort Collis CO Maintenance Plan

On December 16, 2010, the Commission adopted a revised Fort Collins Carbon Monoxide (CO) Maintenance Plan. As with the revision to the Aspen PM10 Maintenance Plan discussed above, the revision to the Fort Collins CO Maintenance Plan is the required 10 year revision to the plan. The revised plan includes updated monitoring data for the area showing ongoing compliance with the federal CO standard. Given the ongoing compliance, no new control strategies are included in the plan. The City of Fort Collins, Larimer County and the North Front Range Transportation and Air Quality Planning Council recommended approval of the proposed revision. There were no adverse comments to the proposed revisions during the public hearing process.