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January 11, 2017

Colorado Legislative Council
029 State Capitol Building
200 East Colfax
Denver, Colorado 80203

Subject: Air Quality State Implementation Plan Revisions Report

Honorable Members of the Colorado Legislative Council:

Attached is the Colorado Air Quality Control Commission's *State Implementation Plan Revisions Report* submitted pursuant to the requirements of § 25-7-133(1), C.R.S.

Respectfully,

A handwritten signature in purple ink that reads 'Michael Silverstein'.

Michael Silverstein, Administrator and Technical Secretary
Colorado Air Quality Control Commission

cc: John Clouse, Chairperson, Air Quality Control Commission
Martha Rudolph, Environmental Programs Director, CDPHE
Karin McGowan, Deputy Executive Director, CDPHE
Chris Colclasure, Acting Air Pollution Control Division Director, CDPHE





COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

Air Quality State Implementation Plan Revisions Report

**Submitted to the
Colorado Legislative Council
pursuant to the provisions of C.R.S. 25-7-133**

**Colorado Air Quality Control Commission
January 11, 2017**



INTRODUCTION

Under the Colorado Air Pollution Prevention and Control Act, the Colorado Air Quality Control Commission (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 which must meet all other requirements of the federal Clean Air Act (CAA). This SIP shall be revised when necessary and appropriate and any revisions must be submitted to the United States Environmental Protection Agency (EPA) for review and approval. Under state law, prior to submitting any SIP revision to EPA, the Commission must submit a report to the legislature each year summarizing any changes or additions to the SIP made in the previous calendar year. 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 Commission'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

In 2016, the Commission adopted the following revisions/additions to Colorado's SIP, which are being submitted for legislative review pursuant to Section 25-7-133(1), C.R.S.:

Regulation Number 3 Part A, Applicable to Greenhouse Gas Permitting Requirements for Large Industrial Facilities

These rule revisions remove the requirement for sources to obtain certain permits solely because the source emits greenhouse gases (GHGs) in excess of EPA's GHG-major source thresholds.

EPA regulations established GHG permitting thresholds for sources already subject to "Prevention of Significant Determination" (PSD) permitting for other pollutants (Step 1) and also GHG thresholds for sources that would be subject to PSD permitting solely due to their GHG emissions (Step 2). In 2014, the United States Supreme Court issued an opinion holding that EPA could not treat GHG as a pollutant for purposes of defining a "major emitting facility" for PSD or a "major source" for Title V permitting. This decision essentially invalidated the Step 2 thresholds, and EPA proceeded to revise its regulations accordingly. The Commission has revised its regulations to be consistent with federal requirements.

Those affected by these revisions include industrial and commercial sources subject to the requirements of the rule - the permitting burden for these sources have been reduced. There was no opposition expressed during the rulemaking process.

Regulation Number 10 Regarding Transportation Conformity Requirements

The Clean Air Act requires federally supported transportation plans, transportation improvement programs, and all regionally significant projects to be consistent with, or "conform to" state air quality plans. Regulation Number 10 outlines procedures for review of transportation conformity determinations depending on whether they are considered "routine" or "non-routine" and provides a definition of "routine conformity determination". The State's Air Pollution Control Division (Division) reviews routine determinations while the Commission reviews non-routine determinations.

The Commission considered and approved revisions that broaden the definition of routine conformity determination. This will allow the Division to consider additional conformity determinations and reduce the number of determinations that must be reviewed by the Commission through hearings. The standards in which conformity determinations are measured against were not changed.

Those affected by these revisions include transportation planning organizations that are subject to the requirements of the rule. This change to the conformity process will reduce the regulatory burden while continuing to ensure that air quality requirements are met. There was no opposition expressed during the rulemaking process.

Regulation Number 3 Part D, Regarding Major Stationary Source Definitions for Nonattainment Areas

These rule revisions allow for the continued permitting of large industrial facilities in nonattainment areas in the event that such areas were to be classified as “serious”, “severe” or “extreme”. For all criteria pollutants, including ozone, these rules had provided for major source permitting only in marginal and moderate nonattainment areas.

Those affected by these revisions include industrial and commercial sources subject to the requirements of the rule. For example, in the event that a more stringent ozone nonattainment classification is warranted for the Denver Metro/North Front Range region, these rule revisions ensure consistency with federal definitions and provide certainty by avoiding any disruption in the permitting process. There was no opposition expressed during the rulemaking process.

Ozone Nonattainment Area SIP Element and the Associated Revisions to Regulation Numbers 7 and 11 and the Air Quality Standards, Designations and Emissions Budgets Regulation

This SIP Element for the Denver Metro and North Front Range ozone nonattainment area, and the associated regulations and technical support documents, comply with federal requirements for ozone nonattainment areas classified as “moderate”. Because this region did not attain the 2008 ozone standard of 75 parts per billion by the end of 2015, the region was bumped up to a moderate nonattainment classification, which requires that a revised ozone plan be developed and submitted to the EPA in 2017.

The ozone plan contains the necessary technical and administrative information required for moderate ozone nonattainment areas, and the regulations ensure that emission limits and reductions are enforceable.

- The key revisions to Regulation Number 7 make certain previously adopted state-only requirements for oil and gas sources federally enforceable, and establish new requirements for older industrial facilities.
- The key revision to Regulation Number 11 makes the existing state-only vehicle inspection and maintenance program for portions of Larimer and Weld Counties federally enforceable.
- The key revisions to the Air Quality Standards regulation establish new motor vehicle emission budgets for use in future transportation conformity determinations.

Those affected by these revisions include citizens, industrial, and transportation planning organizations subject to the requirements of these rules. Stakeholders successfully negotiated the final regulatory language, and there was no opposition expressed to the rule requirements during the rulemaking hearing. The stakeholders also agreed that additional emission control discussions would begin in 2017 that are geared towards further reducing emissions necessary to comply with EPA's 2015 ozone standard of 70 parts per billion.

Regulation Number 3 Part F, Revisions to Colorado's Regional Haze SIP Element for Tri-State's Craig Unit 1 and Nucla Generating Stations

The Commission approved a revisions to the State's Regional Haze SIP Element and Regulation Number 3 that require compliance with more stringent operating and emission control requirements for Tri-State Generation and Transmission Association's Craig Unit 1 and Nucla stations. These revisions are in response to litigation on previously approved emission control requirements, and are summarized as follows:

- Craig Unit 1 will either close on or before December 31, 2025 *or* cease burning coal no later than August 31, 2021 with the option to convert the unit to natural-gas firing by August 31, 2023;
- In the case of a conversion to natural-gas firing, a 30-day rolling average NO_x emission limit of 0.07 lb/MMBtu will be effective after August 31, 2021;
- For both scenarios, Craig Unit 1 will be subject to a NO_x emission limit of 0.28 lb/MMBtu, on a 30 day rolling average, effective January 1, 2017 (first compliance date January 31, 2017), until closing or converting to natural gas;
- Craig Unit 1 will be subject to an annual NO_x emission limit of 4,065 tons per year effective on December 31, 2019 on a calendar year basis beginning in 2020;
- Nucla will close on or before December 31, 2022; and
- Nucla will be subject to an annual NO_x emission limit of 952 tons per year effective January 1, 2020 on a calendar year basis beginning in 2020.

The approved SIP Element and regulatory requirements were agreed to by the parties involved in the litigation. Those affected by these revisions include the owners and operators of Craig Unit 1 and Nucla, federal land managers and states responsible for improving air quality in mandatory federal Class I areas, and citizens. There was no opposition expressed to these requirements during the rulemaking hearing.