



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

January 13, 2023

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 black ink, appearing to read 'Jojo La', is located below the word 'Respectfully,'.

Jojo La, Interim Administrator
Colorado Air Quality Control Commission

cc: Martha Rudolph, Chairperson, Air Quality Control Commission
Jill Hunsaker Ryan, Executive Director, CDPHE
Trisha Oeth, Environmental Health and Protection Services Director, CDPHE
Michael Ogletree, Air Pollution Control Division Director, CDPHE





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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 13, 2023**



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. The Air Quality Control Commission is also charged with developing and updating Regional Haze SIPs to protect visibility in Class 1 protected areas, such as National Parks. 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 2022, 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.:

Regional Haze State Implementation Plan 5-Year Progress Report

On September 15, 2022, the Commission adopted the federally mandated 5-year Progress Report to the Regional Haze State Implementation Plan. The EPA regulations require each state to submit a report to EPA every five years that evaluates progress towards the reasonable progress goal for each class I area.

Ozone State Implementation Plan (SIP) and Associated Regulations: Regulation Number 3, Regulation Number 7, Regulation Number 21, Common Provisions, and Air Quality Standards, Designations, and Emissions Budgets

On December 15-16, 2022, the Commission adopted revisions to Colorado's Ozone State Implementation Plan addressing Severe and Moderate Ozone Nonattainment requirements. This included elements to Colorado's State Implementation Plans (SIP) and revisions to associated regulations. There were six segments to this rulemaking hearing which were addressed by the Commission:

Ozone Nonattainment Area SIP Elements: Severe SIP Element for the Denver Metro and North Front Range (DMNFR) 2008 Ozone Nonattainment Area including severe SIP elements specific to enhanced monitoring, reasonably available control technology (RACT), reasonably available control measures (RACM), motor vehicle inspection and maintenance (I/M), nonattainment new source review (NSR), contingency measures, clean fuel fleet program, vehicle miles travelled offset demonstration, major source fee program. The Commission did not act on the severe SIP elements specific to emission inventories, reasonable further progress, attainment demonstration and weight of evidence, and motor vehicle emissions budgets (MVEB); however, a hearing is anticipated in 2023 to address these severe SIP elements. Moderate SIP Element for the DMNFR and northern Weld County 2015 Ozone Nonattainment Area including moderate SIP elements specific to emission inventories, enhanced monitoring, rate of progress, attainment demonstration and weight of evidence, reasonably available control technology (RACT), reasonably available control measures (RACM), motor vehicle inspection and maintenance (I/M), nonattainment new source review (NSR), contingency measures, and motor vehicle emissions budgets (MVEB). Update to the marginal emissions inventory for the 2015 Ozone Nonattainment Area to include emissions in northern Weld County.

Regulation Number 3: revisions included requirements for a major source fee program should Colorado not attain the 2008 NAAQS by the applicable severe attainment date, revisions to supplement the emission statement requirement of Section 182(a)(3)(B) of the CAA, revisions to correspond to EPA's correction amendments in 40 CFR Part 51, revisions to correspond to public notice in 40 CFR Part 70, and other revisions aligning with current practice and for clean-up. The revisions also included revisions requested for hearing in May to update Part A to reflect the current APEN, emission, and permit processing fees as provided in CRS Sections 24-7-114.1 and 24-7-114.7, but not to include fees on greenhouse gas (GHG) emissions; to include 1-bromopropane (1-BP) on the list of reportable hazardous air pollutants (HAP) to reflect EPA's addition of 1-BP to the federal list of HAPs; and include GHGs on specific air pollutant emission notices (APEN) as directed in CRS Section 25-7-114.1 by HB 21-1266.

Regulation Number 7: revisions included provisions that require the implementation of RACT for major sources of VOC or NO_x in the DMNFR and/or northern Weld County; establish VOC content limits for certain automotive materials; establish VOC content limits for certain automotive coatings should Colorado not attain the 2015 NAAQS by the applicable moderate attainment date; include specific oil and gas requirements for certain 1,000 hp engines, new facility pneumatic controllers, and hydrocarbon liquids loadout in the SIP as SIP-strengthening measures; clarify the applicability of Regulation Number 7 to newly classified ozone nonattainment areas; update the ozone nonattainment area maps and descriptions to reflect the designation of northern Weld County to nonattainment under the 2015 NAAQS; and revise the gasoline tank truck testing requirements.

Regulation Number 21: revisions included new and revised VOC content limits for consumer products should Colorado not attain the 2008 NAAQS by the applicable severe attainment date.

Common Provisions: revisions updated definitions and citations, make the annual adjustment to penalty fees as directed by HB 20-1143, and to further address the affirmative defense provisions identified in EPA's start-up, shutdown, and malfunction (SSM) SIP Call.

Air Quality Standards, Designations and Emission Budgets: revisions to satisfy the transportation conformity requirements of Section 176(c) of the CAA and include motor vehicle emission budgets (MVEB) for use in the Moderate SIPs and proposed revisions to update the ozone attainment area maps and descriptions to reflect the designation of northern Weld County to nonattainment under the 2015 NAAQS.

Other state-only measures and strategies that are key elements of the SIP control program but not intended to become part of the federally-approved SIP include innovative oil and gas regulations; fossil fuel fired unit controls and shutdowns; and greenhouse gas requirements and investment programs for transportation, oil and gas, and manufacturing and industrial facilities. The following are currently being implemented, including:

Regulation Number 20

In April 2023, the Commission will consider revisions to Regulation Number 20 regarding the Advanced Clean Trucks (ACT) and Low NO_x Omnibus rule.

Regulation Number 27

In September 2023, the Commission will consider revisions to Regulation Number 27 adding new revisions to reduce greenhouse gas emissions for the industrial and manufacturing sector, and to make any necessary revisions to reduction strategies for Energy Intensive, Trade-Exposed Manufacturing Source Audit Program in response to HB19-1261 and HB21-1266.

Regulation Number 7

The Commission approved revisions to Regulation Number 7 including requirements for hydrocarbon liquids loadout at class II disposal well facilities, flowback vessel control requirements, and emission reduction requirements for natural gas-fired reciprocating internal combustion engines. The Commission adopted new requirements for air quality monitoring during pre-production and early production oil and gas operations. The Commission also approved revisions to Regulation Number 7 to further minimize emissions from pneumatic controllers used in oil and gas service. New requirements for existing well production facilities and natural gas compressor stations include replacing a percentage of emitting pneumatic controllers with non-emitting controllers on a company-wide basis.

Regulation Number 23

The Regional Haze SIP provisions in Regulation Number 23 include a number of power plants that were identified for shut-down, conversion to natural gas, or additional emission controls. The Regional Haze SIP for the second 10-year planning period has been approved by the AQCC and has reduced NO_x emissions from the retrofit of two combustion units at the Suncor Refinery.

Regulation Number 22

The Commission adopted an economy-wide greenhouse gas reporting rule for Colorado and established phase-out dates for hydrofluorocarbons. The Commission also adopted the Greenhouse Gas Emissions and Energy Management for Manufacturers in Colorado rule requiring facilities to audit its processes to show the implementation of Best Available Control Technologies and Energy Best Management Practices. This will achieve additional greenhouse gas reductions from four energy-intensive facilities that emit greater than 50,000 metric tons of carbon dioxide equivalent per year and have co-benefits for ozone precursor reductions.

Voluntary Programs

Governor Polis' FY2022-23 budget proposal included \$65 million to create a grant program for school districts that will significantly reduce the upfront costs for new electric school buses, other vehicles that routinely transport children to and from school, and support the conversion of diesel buses to electric ones. This program will launch at the beginning of 2023. At the federal level, the EPA has created its *Clean School Bus Program*. Created as part of the 2021 Bipartisan Infrastructure Law, this program will award up to \$5 billion through a nationwide competitive grant program over the next five years for the acquisition of electric school buses. The CDPHE and the Colorado Department of Education will work together with school districts statewide to leverage these federal funds.

In 2021, Senate Bill 21-260 *Sustainability of the Transportation System* created the Clean Fleet Enterprise (CFE) housed in CDPHE. The CFE will expend \$289M over the next ten years to accelerate the adoption of electric motor vehicles, as well vehicles fueled by recovered methane, in Colorado fleets. The CFE Ten-Year Plan focuses on five priority portfolios to accomplish this mission, including clean fleet technology, transportation network company, remote sensing, workforce development, and planning, research, and evaluation.

The CDPHE along with the Colorado Department of Transportation, the Colorado Energy Office, and the Regional Air Quality Council are distributing over \$68.7 million to incentivize emission reductions from diesel vehicles. Colorado was allocated these funds in a nationwide court settlement after investigators discovered that Volkswagen, Audi, and Porsche violated the Clean Air Act by cheating on federal vehicle emissions tests. On January 17, 2019 Governor Jared Polis signed executive order B 2019 002: Supporting a Transition to Zero Emissions Vehicles, which directed CDPHE to, “focus all remaining eligible investments on supporting electrification of transportation, including transit buses, school buses, and trucks.” The program will provide ozone, public health, and climate benefits by reducing emissions of NO_x, CO₂, and other pollutants by funding eligible projects from the transportation sector. To date, over \$53 million in funds have been awarded to applicants throughout Colorado.

Building on our administration's landmark investments to improve air quality and accelerate adoption of clean energy in Colorado, both during the 2022 legislative session as well as in our November 1st budget request for sustainable state government, the Governor's January 3, 2023 budget package includes up to \$120 million annually in clean energy tax credits to continue drawing down the costs of clean energy technologies for residents and businesses across Colorado. This clean energy tax credit package is laser-focused on the sectors of Colorado's economy that can most benefit from federal incentives and funding opportunities through the Inflation Reduction Act (IRA) of 2022 and the Infrastructure Investment and Jobs Act (IIJA) of 2021: transportation, buildings, and industry. These state tax credits will complement federal incentives and funding, and help Colorado residents and businesses maximize their ability to bring federal dollars into our state.

This tax credit package will further incentivize clean energy aligned with Colorado's climate and air quality goals, build upon and leverage new federal incentives and funding opportunities, reduce pollution, and continue to position Colorado as a national leader in the clean energy economy. The package includes extended and expanded electric vehicle (EV) rebates, geothermal energy and clean hydrogen power, resources to clean-up and modernize Colorado industrial facilities, and support for sustainable aviation fuels, electric lawn mowers and leaf blowers, and electric bikes (E-bikes).