

Air Quality
Regional Haze 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 chairperson of the Legislative Council summarizing any changes or additions to the SIP that were adopted during the prior 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 Regional Haze SIP.

STATUTORY REQUIREMENT

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

After a series of public hearings, the Commission adopted revisions to Colorado's Regional Haze State Implementation Plan on January 7, 2011, which are being submitted for legislative review and approval pursuant to Section 25-7-133(1), C.R.S.

The Regional Haze Program is designed to achieve visibility improvements in areas of great scenic importance in Colorado such as national parks and wilderness areas. There are 12 such

areas (known as Class I areas) in Colorado, including Rocky Mountain National Park, Mesa Verde National Park and the Weminuche wilderness area. As required under the federal Clean Air Act, States must develop and periodically update their Regional Haze SIPs in order to implement emission control strategies that will achieve gradual improvement of visibility in designated Class I areas. Pursuant to 40 C.F.R. 51.308(b) Colorado was originally required to submit a Regional Haze State Implementation Plan to EPA no later than December 17, 2007. The Commission adopted a Regional Haze SIP in 2007, and later revised that SIP in 2008 because of identified deficiencies. Subsequently, EPA published a Federal Register Notice on January 15, 2009, that requires Colorado and 36 other states to submit revised SIPs by early 2011. Failure to submit an approvable SIP within this timeframe will subject Colorado to a Federal Implementation Plan (FIP) issued by EPA. Under a FIP, EPA would establish its own emission reduction strategies for Colorado sources without input from the state.

In order to meet the requirements of the 2009 Federal Register Notice, as well as the underlying federal statutory and regulatory requirements governing the Regional Haze Program, Colorado must submit a SIP containing a number of specific elements. First and foremost, the state must establish Best Available Retrofit Technology (BART) requirements for certain specifically identified large stationary sources in Colorado.¹ Under the Clean Air Act, BART for each of these sources must be determined based on consideration of a set of specific factors. This consideration includes an assessment of the costs and anticipated visibility improvements associated with each of the various technologically feasible emission reduction options for a specific source. As an option to complying with BART for each required source, the owner of a group of sources, including non-BART sources, can propose, and Colorado can adopt a BART Alternative that achieves greater emission reductions than imposition of BART on each of the individual sources. The BART Alternative option provides sources with flexibility in reducing emissions, and allows the owner of such sources to achieve additional emission reductions that may later be required under applicable federal and state clean air laws. In addition to establishing BART or BART Alternative requirements for specified sources, Colorado's SIP also must contain additional Reasonable Progress emission control requirements for other large sources identified by the state as impairing visibility in Class I areas. As with BART, Reasonable Progress requirements must be established based on consideration of specified factors set forth under federal law. Finally, the Regional Haze SIP must include extensive and exacting technical documentation describing, among other things, Colorado's visibility monitoring strategy, the sources of visibility impairment in Colorado, how Colorado established BART and Reasonable Progress requirements in accordance with federal law, and Colorado's long term strategy to achieve ongoing visibility improvement at each of Colorado's Class I areas.

The revisions that the Commission adopted represent a comprehensive Regional Haze SIP that addresses each of these required elements. These revisions include changes to AQCC Regulations No. 3 and No. 7, as well as the adoption of a new Regional Haze State Implementation Document, which sets forth the technical support information demonstrating that

¹ BART sources in Colorado are listed in Attachment 1 to this report.

Colorado has complied with federal requirements for establishing a Regional Haze Program.

The revisions to AQCC Regulation No. 3 contain the new BART, BART Alternative, and Reasonable Progress requirements for Colorado sources. These control requirements, and the anticipated emission reductions that will be achieved from these requirements are set forth in Attachment 2 to this report. The revisions to AQCC Regulation No. 3 also include monitoring, recordkeeping and reporting requirements for the various BART, BART Alternative and Reasonable Progress sources necessary to ensure compliance with the established emission reduction requirements. Finally, the Regulation No. 3 revisions include a number of technical changes that are necessary to conform the Regulation to federal Regional Haze Program Requirements. With the exception of the revisions involving certain Public Service Company of Colorado sources discussed below, the revisions to Regulation No. 3 were ultimately agreed to by all of the parties to the Commission's Regional Haze Rulemaking including the subject industry sources. In total, the new Regulation No. 3 requirements are expected to reduce Nitrogen Oxide (NO_x) and Sulfur Dioxide (SO₂) emissions by approximately 34,700 tons per year and 35,700 tons per year respectively.

Included within the revisions to AQCC Regulation No. 3, is a BART Alternative for various sources owned by Public Service Company of Colorado (PSCo) that was developed in accordance with the procedures set forth in HB10-1365, the Clean Air Clean Jobs Act (CACJA), which the General Assembly adopted and the Governor signed during the 2010 legislative session. See § 40-3.2-208, C.R.S. As required under CACJA, the Public Utilities Commission (PUC) conducted an eight month long process aimed at developing a comprehensive emission reduction plan for PSCo's BART and Reasonable Progress sources. This process included the participation of dozens of parties with varying interests ranging from coal producing interests, to natural gas producers, to environmental groups and interested local governments. At the conclusion of the PUC process, the PUC issued an Order on December 15, 2010, detailing emission control requirements for PSCo's sources. This Order set forth a mix of control requirements, including the shutdown of older and less efficient coal fired electric generating units, the conversion of certain units to natural gas operation, and requirements for the most advanced add-on NO_x and SO₂ pollution controls for PSCo's largest coal burning units.

In accordance with the procedures set forth in CACJA, the AQCC incorporated all of these requirements into the Regional Haze SIP as the Bart Alternative for the subject PSCo sources.² During the hearing on the PSCo BART Alternative plan, the Air Pollution Control Division, PSCo, various environmental groups, Denver and Boulder Counties, and numerous public

² In addition to the process involving PSCo's sources, the PUC conducted a separate process required under CAJCA to develop control requirements for Black Hills Corporation's Clark Station. Clark Station consists of two very small, older coal fired electric generating units. At the conclusion of this process, the PUC approved Black Hills plan to retire the Clark Station units. The AQCC incorporated the requirement for retirement of the Clark Station units as the Reasonable Progress requirements for these units as contemplated under CACJA. The AQCC adopted these requirements without any objection from the source, the participating environmental groups or the coal interests that participated in the AQCC hearing.

commenters, including natural gas companies, provided testimony in support of the plan. The Colorado Mining Association, Peabody Energy Corporation and the Associated Governments of Northwest Colorado asked that the AQCC either reject or delay consideration on the PSCo BART Alternative, but did not offer any alternative proposal for the PSCo sources covered by the BART Alternative.

The revisions to Regulation No. 7 that the Commission adopted do not establish any new emission control requirements for Colorado. Rather, these revisions incorporate existing state-only control requirements for reciprocating internal combustion engines (RICE) into the Regional Haze SIP. By incorporating these requirements into the SIP, Colorado can take credit for the emission reductions as Reasonable Progress requirements in meeting its regional haze obligations without imposing any additional costs on Colorado sources. None of the parties to the Commission Regional Haze Rulemaking opposed the revisions to Regulation No. 7

Finally, the Commission's revisions to the Regional Haze SIP Document set forth the remaining elements required to establish an approvable Regional Haze SIP. These include the following: 1) an overview of Colorado's Regional Haze Program; 2) Colorado's response to comments from Federal Land Managers on the program as required by federal law; 3) a description of the state's monitoring strategy and visibility modeling work; 4) identification of the sources of visibility impairment at Colorado's Class I areas; 5) a detailed description of all of the BART, BART Alternative and Reasonable Progress determinations, and demonstrations that the process used to reach these determinations complied with federal law; and finally 6) Colorado's long term strategy to achieve ongoing visibility improvement at each of Colorado's Class I areas.

CONCLUSION

Ultimately, the Regional Haze SIP adopted by the Commission represents a comprehensive, highly technical planning document designed to meet the elaborate and exacting federal requirements governing the Regional Haze Program. As adopted, the plan will reduce the emission of approximately 71,000 tons of visibility impairing pollutants in Colorado every year. Additionally, the reduction of approximately 35,000 tons of NO_x emissions will be essential to Colorado's efforts to achieve or maintain National Ambient Air Quality Standards for ground level ozone in areas throughout the state. These SIP revisions were adopted only after an unprecedented level of public process before the PUC and the Air Quality Control Commission.

As adopted, the SIP revisions taken in their entirety will allow Colorado to submit a timely and approvable Regional Haze SIP to EPA. In submitting this SIP to EPA, Colorado will meet its obligations under the federal Clean Air Act and avoid imposition of an EPA developed Federal Implementation Plan, while both improving the scenic vistas in Colorado's most important national parks and wilderness areas and protecting the health of Colorado's citizens.