



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

November 15, 2022

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

**Subject:** Anticipated Revisions to the Colorado State Implementation Plan for Air Quality for Calendar Year 2023

Pursuant to C.R.S. § 25-7-133(4)(b), the Colorado Air Quality Control Commission (“AQCC” or “Commission”) is directed to provide Legislative Council with a list of anticipated changes to Colorado’s federally-approved State Implementation Plan(s) (SIP) for the upcoming year. Based on its current Long Term Calendar, the AQCC will consider the following SIP change during calendar year 2023:

**Regulation Number 7 (*only Regulation Number 7 is SIP related*)**

In April 2023, the Commission will consider separating Regulation Numbers 7 and 22. This would be completed by maintaining parts of Regulation Number 7 as such and establishing new regulation numbers: Part B becomes Regulation Number 24; Part C becomes Regulation Number 25; and Part E becomes Regulation Number 26. The upstream oil and gas intensity and midstream combustion program provisions currently in Regulation Number 22 would be moved to Regulation Number 7 and remain as state-only. The manufacturing sector greenhouse gas provisions in Regulation Number 22 would become a new Regulation Number 27. The proposed revisions will also include formatting changes.

**Ozone State Implementation Plan**

In late 2023, it is anticipated that revisions will be considered to finalize the 2008 Ozone National Ambient Air Quality Standards (NAAQS) Severe Non-Attainment area SIP. The Colorado Department of Public Health and Environment (CDPHE) initially assumed that this SIP would be due to EPA in 2023. However, in its Federal Register notice dated October 7, 2022, EPA provided Colorado with additional flexibility to submit the SIP in 2024. While the CDPHE did not proactively seek that added flexibility, the CDPHE appreciates the opportunity to ensure that all the technical elements of the SIP are correct, and that the state has a robust set of strategies in place that will allow it to comply with the ozone NAAQS by 2026.



These revisions are expected to include additional emission control strategies to reduce ozone precursor emissions as part of Colorado's ongoing efforts to bring the Denver Metro/North Front Range area back into attainment with federal health based ozone standards. The SIP revisions could include changes to AQCC Regulation Number 7 as well as other AQCC regulations. The proposed emission control regulation revisions will be informed by a stakeholder process and technical analysis during the first half of 2023. In addition to control regulations, the SIP action is expected to include updated inventories and photo-chemical modeling that demonstrates the area will meet the 2008 standard by 2026. These revisions will also be informed by stakeholder processes that will occur during the first half of 2023.

The revisions will also likely include anticipated changes to the existing SIP, as well as revisions to the Moderate area SIP for the 2015 NAAQS that is currently before the Commission, as discussed further, in response to EPA guidance. It will also include SIP clean-up efforts, clarifications, and technical and general typographical and grammatical corrections.

These and any other SIP revisions adopted by the AQCC in 2023 will be provided to the Legislative Council for consideration in January 2024, prior to submittal to the EPA.

Please note that in December 2022 the Commission will consider revisions to Colorado's Ozone SIP, for both the 2008 ozone standard and the 2015 ozone standard, to further reduce ozone precursor emissions in Colorado's Non-Attainment area. The SIP is required by the federal Clean Air Act to exhibit the state's federally enforceable plans to come into compliance with the federal National Ambient Air Quality Standards. Therefore, there will have just been an adoption of additional control measures and strategies to address ozone precursor emissions in December 2022. In addition, to further strengthen Colorado's Ozone SIP, elements of state-only requirements are being considered for inclusion in the SIP. Specifically, state-only provisions being considered include requirements for operators in the Denver Metro/North Front Range to use non-emitting pneumatic controllers at new facilities, to control emissions from liquid loadout activities, and emission standards for large engines at specific oil and gas facilities. During the December 2022 hearing, the Commission will consider adoption of the full 2015 standard Moderate area SIP, which is due to EPA in 2023. The Commission will also consider a number of elements for the 2008 standard SIP, which will be completed in 2023 as discussed. These include emission control regulations as well as a number of technical elements that are required to be submitted to EPA under the Clean Air Act.

The details regarding the SIP revisions, as approved by the Commission, will be provided in the AQCC's report to the Colorado General Assembly by January 15, 2023, pursuant to C.R.S. §25-7-133(1). Additionally, the Governor and state agencies are committed to exploring additional control measures to ensure attainment of the ozone standard and avoid ineffective and punitive federal requirements, such as reformulated gasoline.



Additional control measures will be considered, explored, and developed in 2023 and beyond, despite not currently being reflected on the AQCC's calendar for 2023. Other anticipated air quality related regulatory activity in 2023 not intended to become part of the federally-approved SIP include:

#### **Regulation Number 20**

In April 2023, the Commission will consider revisions to Regulation Number 20 regarding California's Advanced Clean Trucks (ACT) and Low NO<sub>x</sub> Omnibus rule.

#### **Regulation Number 7**

In July 2023, the Commission will consider revisions to Regulation Number 7 to address greenhouse gas intensity verification in the oil and gas sector.

#### **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.

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 for transportation, oil and gas, and energy-intensive trade-exposed manufacturing facilities. The following are currently being implemented, including:

#### **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<sub>x</sub> 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<sub>x</sub>, CO<sub>2</sub>, 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.



The scheduled SIP revisions noted, along with the AQCC's other anticipated air quality related regulatory activity not intended to become part of the federally-approved SIP have been included in the AQCC's Long Term Calendar and the CDPHE's 2023 Regulatory Agenda at the following links. More information on CDPHE's voluntary programs can also be found at the links below.

<https://cdphe.colorado.gov/aqcc>

<https://cdphe.colorado.gov/public-information/boards-and-commissions/annual-departmental-regulatory-documents>

<https://cdphe.colorado.gov/air-ollution/air-pollution-control-division-topics>

Thank you very much.

A handwritten signature in black ink, appearing to read 'Jeremy Neustifter', written in a cursive style.

Jeremy Neustifter, Director Environmental Boards and Commissions  
Colorado Department of Public Health and Environment

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

