

STATE OF COLORADO

John W. Hickenlooper, Governor
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COLORADO AIR QUALITY CONTROL COMMISSION
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**Colorado Department
of Public Health
and Environment**

NOTICE OF WRITTEN COMMENT ONLY PUBLIC RULEMAKING HEARING BEFORE THE COLORADO AIR QUALITY CONTROL COMMISSION

Regarding proposed revisions to:
Regulation Number 18

SUBJECT:

The Colorado Department of Public Health and Environment, Air Pollution Control Division (“Division”) requests that the Colorado Air Quality Control Commission (“AQCC”) revise Regulation Number 18 to incorporate by reference Environmental Protection Agency (EPA) amendments to the Federal Acid Rain Program at 40 C.F.R. Part 72 into Regulation Number 18. The amendments revise and add definitions and an American Society for Testing and Material standard related to EPA’s Protocol Gas Verification Program and minimum competency requirements for air emission testing.” Further, the proposed revisions will include correction of any typographical or grammatical errors throughout the regulation.

FEDERAL REQUIREMENTS:

The federal act does not require the Commission to make any of the rule revisions that are the subject of this Notice of Public Rulemaking Hearing. A proposed Statement of Basis, Specific Statutory Authority, and Purpose and a regulatory analysis (if one has been requested) will be available for inspection no later than five (5) days prior to the hearing. The proposed language for the rule revision is attached to and made a part of this notice.

HEARING SCHEDULE:

DATE: October 18, 2012
TIME: 9:00 AM
PLACE: Colorado Department of Public Health & Environment
4300 Cherry Creek Drive South, Sabin Conference Room
Denver, Colorado 80246

The hearing may be continued at such places and time as the Commission may announce. Interested parties may contact the Commission Office at 303-692-3476 to confirm meeting dates and times.

Further information may be found at <http://www.cdphe.state.co.us/op/aqcc/index.html>

PUBLIC COMMENT:

This is a written comment only rulemaking hearing. The Commission encourages all interested persons to provide their views in writing prior to the hearing. Written comments should be submitted no later than **October 2, 2012**. The Commission especially solicits comments and analyses from persons who will incur directly some cost or benefit from the proposed revisions. No testimony will be taken at the hearing except for good cause shown. Written submissions should be mailed to the Commission Office at the address listed in the hearing schedule.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

Sections 25-7-105(1)(b) and 25-7-109(2)(a) and (c), C.R.S. (2011) authorize the Commission to adopt emission control regulations and emission control regulations relating to visible pollutants, sulfur oxides, and nitrogen oxides, specifically. The rulemaking hearing will be conducted in accordance with sections 24-4-103 and 25-7-110, C.R.S., as amended, the Procedural Rules of the Commission and as otherwise stated in this notice. This list of statutory authority is not intended as an exhaustive list of the Commission's statutory authority to act in this matter.

Dated this 23rd day of July 2012 at Denver, Colorado

A handwritten signature in cursive script that reads "Michael Silverstein". The signature is written in dark ink and is positioned above a horizontal line.

Michael Silverstein, Administrator

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION ~~NO.~~NUMBER 18

CONTROL OF EMISSIONS OF ACID DEPOSITION PRECURSORS

5 CCR 1001-22

- I. The Colorado Air Quality Control Commission hereby adopts and incorporates by reference the regulations promulgated by the U.S. Environmental Protection Agency, published at 40 CFR Part 72 (July 1, ~~2005~~2011) and Part 76 (July 1, ~~2005~~2011) for the purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act. This material is made a part of the Colorado Air Quality Control Commission Regulations. Materials incorporated by reference are those in existence as of the date of this regulation and do not include later amendments. The material incorporated by reference is available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246, ~~or may be examined at any state publications depository library.~~ Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission. The material incorporated by reference is also available through the United States Government Printing Office, online at www.gpo.gov/fdsys.

The term "permitting authority" shall mean the Colorado Air Pollution Control Division (Division).

The term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

If the provisions or requirements of 40 CFR part 72, or part 76 conflict with or are not included in the Colorado Air Quality Control Commission Regulation No. 3, the part 72 and part 76 provisions and requirements shall apply and take precedence.

The Colorado Air Quality Control Commission commits to take action, following the promulgation by EPA of regulations implementing sections 407 and 410 of the Clean Air Act 42 USC Sections 7651f and 7651i, or revising either 40 CFR part 72 or the regulations implementing sections 407 or 410; to either incorporate such new or revised provisions by reference or submit for EPA approval, Colorado Air Quality Control Commission regulations implementing these provisions.

II. Statement of Basis, Specific Statutory Authority, and Purpose

G. Adopted October 18, 2012

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Administrative Procedures Act, C.R.S. (1988), Sections 24-4-103(4) and 103(12.5) for adopted or modified regulations, and with the requirements of federal regulations incorporated by reference.

Title IV of the 1990 Clean Air Act Amendments (CAAA) authorizes the Environmental Protection Agency (EPA) to establish the Acid Rain Program. The Acid Rain Program sets emission limitations to reduce acidic particles and deposition and their serious, adverse effects on public health, natural resources, ecosystems, materials, and visibility.

Basis

On March 28, 2011, the EPA promulgated amendments to 40 C.F.R. Part 72, the Federal Acid Rain Program, as part of a broader rulemaking amending and establishing the Protocol Gas Verification Program and minimum competency requirements for air emission testing. The Part 72 amendments revise and add definitions and an American Society for Testing and Materials standard.

The State of Colorado is required under Title IV of the CAAA to incorporate such revisions into its regulations.

Authority

Sections 25-7-105(1)(b) and 25-7-109(2)(a) and (c), C.R.S. (2011) authorize the Commission to adopt emission control regulations and emission control regulations relating to visible pollutants, sulfur oxides, and nitrogen oxides, specifically.

Purpose

Adoption of the federal amendments to 40 C.F.R. Part 72 will make these revisions to the Federal Acid Rain Program enforceable under Colorado law. Adoption of these revisions will not impose upon sources additional requirements beyond the minimum required by federal law, and will ensure consistent interpretation of terminology used in the Acid Rain Program and other federal programs. Further, these revisions may correct typographical, grammatical, and formatting errors throughout the regulation.