



COLORADO

Air Quality Control Commission

Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 27 5 CCR 1001-31

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 27 adding new revisions to reduce greenhouse gas emissions from the industrial and manufacturing sector, and make any necessary revisions to reduction strategies for Energy Intensive, Trade-Exposed Manufacturing Source Audit Program, in response to HB19-1261 and HB21-1266.

All required documents for this rulemaking can be found on the Commission website at:

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

PUBLIC COMMENT SESSION

DATE: September 20, 2023

TIME: 4:30 p.m. to 7:30 p.m.

PLACE: The session will be held online only; there will be no in-person participation. Details related to participation and registration can be found at:

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

NOTE: The public comment session may end early if all commenters that are registered and in attendance before 6:30 have had an opportunity to speak prior to 7:30.

PARTY TESTIMONY & DELIBERATIONS

DATE: September 21-22, 2023

TIME: To begin at or after 9:00 a.m.

PLACE: The hearing will be held online and at the Colorado Department of Public Health and Environment (4300 Cherry Creek Drive South, Denver, CO 80236). Details related to participation and registration can be found at:

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

IMPORTANT: As Colorado begins to re-open from COVID-19, the Commission may conduct meetings online only. Any such changes will be noticed in the agenda on the Commission's website at: <https://cdphe.colorado.gov/aqcc>

The hearing may be continued at such places and time as the Commission may announce. Any such changes will be noticed on the Commission's website. Interested parties may contact the Commission Office at cdphe.aqcc-comments@state.co.us to confirm meeting details.

PUBLIC COMMENT:

The Commission encourages input from the public, either orally during the public comment session or in writing prior to the hearing. However, oral public comment will generally not be permitted by persons who offer comment on behalf of an entity that is a party. Those persons may, however, submit written public comment.

Instructions for registering to provide oral public comment will be posted in the agenda on the Commission’s website at <https://cdphe.colorado.gov/aqcc> on September 8, 2023.

Written comments should be submitted no later than **September 5, 2023** by emailing cdphe.aqcc-comments@state.co.us or mailing to:

Colorado Air Quality Control Commission
 Colorado Department of Public Health and Environment
 4300 Cherry Creek Drive South, EDO-AQCC-A5
 Denver, Colorado 80246

IMPORTANT DATES AND DEADLINES:

PROCESS DESCRIPTION	DUE DATE & TIME	NOTES
Request for Party Status	June 15, 2023 by 5:00 p.m.	Additional information below
Status Conference	June 20, 2023 at 9:00 a.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc
Alternate Proposal	July 10, 2023 by 5:00 p.m.	Additional information below
Prehearing Statement	July 10, 2023 by 5:00 p.m.	Additional information below
Prehearing Conference	July 19, 2023 at 1:00 p.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc
Rebuttal Statement	August 21, 2023 by 5:00 p.m.	Additional information below
Written Public Comments	September 5, 2023 by 5:00 p.m.	Additional information above

Submittals for this hearing should be emailed to cdphe.aqcc-comments@state.co.us unless an exception is granted pursuant to Subsection III.1.3. of the Commissions Procedural Rules.

REQUEST FOR PARTY STATUS:

A request for party status must:

- 1) identify the applicant (this could be a company and/or contact name);
- 2) provide the name, address, telephone and email address of the applicant’s representative or counsel; and
- 3) briefly summarize what, if any, policy, factual, and legal issues the applicant has with the proposal(s) as of the time of filing the application.

In addition, requests for party status should indicate whether the applicant intends to file an alternate proposal and, if so, briefly describe the scope and nature of the alternate proposal.

The request for party status must be electronically mailed to:

- Air Quality Control Commission staff: theresa.martin@state.co.us
- Air Quality Control Commission attorney: robyn.wille@coag.gov
- Air Pollution Control Division staff: megan.mccarthy@state.co.us
- Air Pollution Control Division attorney: david.beckstrom@coag.gov

Requests received beyond the stated deadline shall only be considered upon a written motion for good cause shown. The Commission reserves the right to deny party status to anyone that does not comply with the Commission's Procedural Rules.

STATUS CONFERENCE:

Attendance at the status conference is mandatory for anyone who has requested party status, though each party need only have one representative present. The status conference is intended to ascertain and discuss the issues involved, and to ensure that parties are making all necessary efforts to discuss and resolve such issues prior to the submission of prehearing statements. Parties will be confirmed and a party list will be generated and distributed. The status conference will be held virtually via video conference. A registration link will be provided by the Commission's office prior to the status conference. Note that if the Hearing Officer deems the status conference unnecessary, the status conference may be cancelled.

ALTERNATE PROPOSAL:

Alternate proposals will be considered by the Commission "only if the subject matter of the alternative proposal is consistent with and fits within the scope of the notice." 5 CCR 1001-1, Section (V)(E)(4)(b). The submission of redlined language is not automatically considered an alternate proposal. Whether specific redlines rise to the level of an alternate proposal is determined on a case-by-case basis, taking into consideration many factors, including the impact of those redlines on the Division's proposal. Parties submitting redlines that they do not believe should be considered alternate proposals are encouraged to provide information demonstrating that the redlines simply delete, clarify, or elaborate on the Division's proposal.

The submittal of an alternate proposal must be accompanied by a separate electronic copy of the alternate proposed rule and statement of basis and purpose language and all other associated documents as required by the Commission's Procedural Rules, including an economic impact analysis. Alternate proposals and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. Objections to the submission of redlines that are not identified as alternate proposals and accompanied by the required information for alternate proposals under the Commission's Procedural Rules must be made by motion in writing prior to the Prehearing Conference.

PREHEARING STATEMENTS:

Each party must submit a prehearing statement. Exhibits to a prehearing statement must be submitted in a separate electronic transmission. Prehearing statements and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. Prehearing statements must contain all the necessary elements described in subsection V.E.6.c of the Commission's Procedural Rules (5 CCR 1001-1).

PREHEARING CONFERENCE:

Attendance at the prehearing conference is mandatory for all parties to this hearing, though each party need only have one representative present. The prehearing conference will be held virtually, and registration information will be provided by the Commission's office prior to the prehearing conference. During the prehearing conference, parties should be prepared to identify their priority issues for the Hearing Officer, and not simply refer to their Prehearing Statements. Requests regarding time allocations, the order of testimony, or witness availability should be raised verbally at the Prehearing Conference.

REBUTTAL STATEMENTS:

Rebuttal statements may be submitted by the Division and any party to the hearing to respond to issues and arguments identified in prehearing statements. Rebuttal statements may not raise any issues, or be accompanied by alternate proposals, that could have been raised in the party's prehearing statement. Rebuttal statements and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. The filing of rebuttal statements is optional.

DELIBERATION AND FINAL ACTION:

The Commission intends to deliberate and take final action on the proposed changes to these Regulations at the conclusion of the testimony.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

Under Section 25-7-105(1)(e)(XIII), C.R.S., the Commission is to adopt rules that reduce statewide greenhouse gas (GHG) emissions from the industrial and manufacturing sector. Section 25-7-105(1)(e), C.R.S., authorizes the Commission to promulgate implementing rules and regulations to abate greenhouse gas (GHG) emissions consistent with the statewide GHG pollution reduction goals in section 25-7-102(2)(g). Under Section 25-7-105(1)(e)(XIII), C.R.S., the Commission is directed to adopt rules that reduce statewide greenhouse gas (GHG) emissions from the industrial and manufacturing sector.

Section 25-7-106(6), C.R.S., further authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report emission data and other information as the Commission may require. Section 25-7-109(1), C.R.S., authorizes the Commission to adopt and promulgate emission control regulations that require the use of effective practical air pollution controls for each type of facility, process, or activity which produces or might produce significant emissions of air pollutants. Emission control regulations may pertain to any chemical compound including GHG pollution, see § 25-7-109(2)(c). § 25-7-106, C.R.S., provides the Commission maximum flexibility in developing an effective air quality program and promulgating such a combination of regulations as may be necessary or desirable to carry out that program.

Under Section 25-7-105(1)(f), C.R.S., the Commission is authorized to adopt a greenhouse gas crediting and accounting program that can be used by regulated sources to meet greenhouse gas reduction obligations established in rules adopted by the Commission.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S., as applicable and amended, the Commission's Procedural Rules, all other applicable rules and regulations, 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 17th day of May 2023 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in black ink, appearing to read "Jojo La", written over a horizontal line.

Jojo La, Interim Administrator