



COLORADO

Air Quality Control Commission

Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

**Regulation Number 7
5 CCR 1001-9**

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions addressing ozone precursors emissions and aligning with the Environmental Protection Agency's model rule in 40 CFR Part 60 Subpart OOOOc, improvements through standardizations of the pre- and early- production oil and gas air quality monitoring program, and updating the definition of disproportionately impacted community.

All required documents for this rulemaking can be found on the Commission website at: <https://cdphe.colorado.gov/aqcc>

HEARING SCHEDULE

DATE: February 19, 2025

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>

DATE: February 20-21, 2025

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

PLACE: The hearing will be held in hybrid fashion both in-person and via Zoom. Details related to participation and registration can be found 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@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 **February 7, 2025**. The agenda will provide more specifics about the details of the hearing and when the public can expect the public comment session to take place.

Written comments should be submitted no later than **February 4, 2025** by emailing cdphe.aqcc@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
Request for Party Status	December 12, 2024 by 5:00 p.m.
Status Conference	December 16, 2024 at 9:00 a.m.
Alternate Proposal	January 8, 2025 by 5:00 p.m.
Prehearing Statement	January 8, 2025 by 5:00 p.m.
Prehearing Conference	January 15, 2025 at 10:00 a.m.
Rebuttal Statement	January 28, 2025 by 5:00 p.m.
Written Public Comments	February 4, 2025 by 5:00 p.m.

Submittals for this hearing should be emailed to cdphe.aqcc@state.co.us unless an exception is granted pursuant to Section III.I.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: cdphe.aqcc@state.co.us
- Air Quality Control Commission attorney: robyn.wille@coag.gov
- Air Pollution Control Division staff: jeremy.schuster@state.co.us
- Air Pollution Control Division attorney: laura.mehew@coag.gov
- Air Pollution Control Division attorney: rylie.slaybaugh@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 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.

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 Section 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.

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:

The State Air Act, specifically § 25-7-105(1) directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102 and that are necessary for the proper implementation and administration of Article 7. The Act broadly defines "air pollutant" to include essentially any gas emitted into the atmosphere (and, as such, includes VOC, NO_x, methane and other hydrocarbons) and provides the Commission broad authority to regulate air pollutants. See § 25-7-103(1.5). § 25-7-105(1)(a)(I) directs the Commission to adopt a state implementation plan (SIP) to attain the NAAQS. § 25-7-105(1)(b) directs the Commission to adopt emission control regulations in conformity with § 25-7-109. § 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating any such combination of regulations as may be necessary or desirable to carry out that program. § 25-7-106(1)(c) also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution. § 25-7-106(6) further authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report information. § 25-7-109(1)(a) directs the Commission to adopt emission control requirements that require the use of effective practical air pollution controls for: (1) each significant source or category of significant sources of air pollutants; and (2) each type of facility, process, or activity which products or might product significant emissions of air pollutants. § 25-7-103 defines "emission control regulation" to mean a regulation that is applicable to a specified type of facility, process, or activity for the purpose of controlling the extent, degree, or nature of pollution emitted and a regulation that adopts any design, equipment, work practice, or operational standard. § 25-7-109(2) allows emission control regulations pertaining to, among other pollutants, nitrogen oxides and hydrocarbons.

In addition, § 24-4-109(2)(a)(I)(A) asserts that all statewide agencies shall use the definition of disproportionately impacted community as set forth in the statute. § 24-4-109(2)(a)(I)(B) provides that a statewide agency may “prioritize or target” certain subsets of communities that meet the definition of disproportionately impacted community if the prioritization is warranted and reasonably tailored to the statewide action being taken. If the statewide agency making the determination to prioritize or target retains rulemaking authority, the agency must make this determination by rule. See 24-4-109(2)(a)(I)(B). § 24-4-109(2)(b)(IV) defines “statewide agency” to include any commission, thus, the Commission is authorized to prioritize or target certain subsets of the definition of disproportionately impacted community so long as that prioritization is warranted and reasonably tailored to the Commission’s action.

The rulemaking hearing will be conducted in accordance with §§ 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 26th day of November 2024 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in black ink, appearing to read 'Jojo La', is written above a horizontal line.

Jojo La, Administrator