



## COLORADO

Air Quality Control Commission

Department of Public Health & Environment

### NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

**Regulation Number 3 and Regulation Number 7  
5 CCR 1001-5 and 5 CCR 1001-9**

#### **SUBJECT:**

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 3 to address toxic air contaminants and associated emissions reporting, in response to HB 22-1244, which will include corresponding revisions to Regulation Number 7. The Commission may revise fee provisions related to emissions, reporting, and permit processing in Regulation Number 3.

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

#### **HEARING SCHEDULE**

DATE: April 16, 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: April 17-18, 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](mailto: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 **April 4, 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 **April 1, 2025** by emailing [cdphe.aqcc@state.co.us](mailto: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:**

<b>PROCESS DESCRIPTION</b>	<b>DUE DATE &amp; TIME</b>
Request for Party Status	January 13, 2025 by 5:00 p.m.
Status Conference	January 15, 2025 at 3:00 p.m.
Alternate Proposal	March 11, 2025 by 5:00 p.m.
Prehearing Statement	March 11, 2025 by 5:00 p.m.
Prehearing Conference	March 19, 2025 at 3:00 p.m.
Rebuttal Statement	March 25, 2025 by 5:00 p.m.
Written Public Comments	April 1, 2025 by 5:00 p.m.

Submittals for this hearing should be emailed to [cdphe.aqcc@state.co.us](mailto: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](mailto:cdphe.aqcc@state.co.us)
- Air Quality Control Commission attorney: [robyn.wille@coag.gov](mailto:robyn.wille@coag.gov)
- Air Pollution Control Division staff: [amanda.damweber@state.co.us](mailto:amanda.damweber@state.co.us)
- Air Pollution Control Division attorney: [julia.lamanna@coag.gov](mailto:julia.lamanna@coag.gov)
- Air Pollution Control Division attorney: [emilky.splitek@coag.gov](mailto:emilky.splitek@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:**

#### **Regulation Number 3:**

The Colorado Air Pollution Prevention and Control Act, § 25-7-101, C.R.S., et seq. (the State Air Act or the Act), specifically § 25-7-105(1), C.R.S., directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102, C.R.S., and that are necessary for the proper implementation and administration of Article 7. Section 25-7-109.5(4)(c)(III) C.R.S. directs the Commission to consider the adoption of rules that ensure annual reports on toxic air contaminants are submitted to the Division and may require additional types of information to be included in annual toxic emissions reports submitted to the Division for operations and emissions occurring in calendar year 2025 and each calendar year thereafter. Section 25-7-109.5(4)(d) C.R.S. allows the Commission to establish by rule a de minimis level of emissions of TAC beneath which an owner or operator is not required to report. Section 25-7-109.5(3) C.R.S. directs the Commission to review the list of TACs published by the Division and determine whether to designate any additional air pollutants as TACs, beginning no later than September 2030 and every 5 years, or more frequently, thereafter. Section 25-7-114.1(6)(a) authorizes the Commission to adjust the APEN filing fee by rule to cover the indirect and direct costs required to develop and administer the programs established pursuant to this article 7. Section 25-7-114.7(2)(a) authorizes the Commission to adjust emissions fees and permit processing fees to cover the indirect and direct costs required to develop and administer the programs established pursuant to this article 7.

Regulation Number 7:

The Colorado Air Pollution Prevention and Control Act, § 25-7-101, C.R.S., et seq. (the State Air Act or the Act), specifically § 25-7-105(1), C.R.S., directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102, C.R.S., and that are necessary for the proper implementation and administration of Article 7. Section 25-7-109.5(4)(c)(III) C.R.S. directs the Commission to consider the adoption of rules that ensure annual reports on toxic air contaminants are submitted to the Division and may require additional types of information to be included in annual toxic emissions reports submitted to the Division for operations and emissions occurring in calendar year 2025 and each calendar year thereafter. Section 25-7-109.5(4)(d) C.R.S. allows the Commission to establish by rule a de minimis level of emissions of TAC beneath which an owner or operator is not required to report.

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 18th day of December 2024 at Denver, Colorado

Colorado Air Quality Control Commission



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Jojo La, Administrator