

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH, Executive Director and Chief Medical Officer

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

COLORADO AIR QUALITY CONTROL COMMISSION

<http://www.cdphe.state.co.us>

4300 Cherry Creek Drive South, EDO-AQCC-A5
Denver, Colorado 80246-1530
Phone (303) 692-3100
Fax (303) 691-7702
TDD (303) 691-7700



**Colorado Department
of Public Health
and Environment**

SUPPLEMENTAL **NOTICE OF PUBLIC RULEMAKING HEARING BEFORE THE COLORADO AIR QUALITY CONTROL COMMISSION**

Regarding proposed revisions to:

Regulation Number 11

SUBJECT:

The Air Quality Control Commission (Commission) will hold a public hearing to consider revisions to Regulation Number 11. The Air Pollution Control Division (Division) has proposed changes to the gasoline vehicle inspection and maintenance program (I/M) that would put in place a program to help meet the region's future air quality needs.

The Division is proposing to increase the new vehicle model-year exemptions from emissions testing from four to seven years, to require on-board diagnostics (OBD) testing for the next two inspection cycles, to require the current I/M-240 testing commencing with the third inspection cycle, to maintain the remote sensing provisions of the current program, to address other minor program deficiencies, and to delete obsolete language, and to revise typographical, grammatical, and formatting errors. Proposals that alter the structure of the Division's recommended program, such as modifying the model-year exemptions or the number of inspection cycles that vehicles would be subject to OBD or I/M-240 testing may be accepted for consideration by the Commission. Proposals that recommend changes to the program's current boundaries will be not be considered by the Commission. Most program elements of Regulation Number 11 are currently in the federal State Implementation Plan, and the proposed regulations are intended to update and replace federally-required measures.

This Supplemental Notice clarifies that the proposed revisions applicable in all or portions of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties, if approved by the Commission, are intended to be submitted to the Environmental Protection Agency for incorporation into the federal State Implementation Plan. This Supplemental Notice further clarifies that the proposed revisions applicable in portions of Larimer and Weld Counties, if approved by the Commission, are intended to remain as state-only provisions and will not be submitted to the Environmental Protection Agency for incorporation into the federal State Implementation Plan.

HEARING SCHEDULE:

DATE: December 20, 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.

PUBLIC COMMENT:

The Commission encourages all interested persons to provide their views either orally at the hearing or in writing prior to or at the hearing. The Commission especially solicits comments and analyses from persons who will incur directly some cost or benefit from the proposed revisions. Public testimony will be taken as close to the start of the hearing as possible and during the hearing as necessary. Written and/or electronic submissions are requested, but not required to be submitted prior to the hearing to allow review prior to presentation at the hearing. Written and/or electronic submissions should be mailed to the Commission Office at least 14 days prior to the hearing.

PARTY STATUS:

Any person may obtain party status for the purpose of this hearing by complying with the requirements of the Commissions Procedural Rules. A petition for party status must be filed by electronic mail with the Office of the Air Quality Control Commission no later than close of business on **October 19, 2012**. The petition must: *1) identify the applicant; 2) provide the name, address, telephone and facsimile numbers, and email address of the applicants representative; 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.* Electronically mailed copies must also be received, by this same date, by the Division staff person and the Assistant Attorneys General representing the Division and the Commission identified below.

Any person may petition the Commission to file documents in paper copy format if they are unable for any reason to comply with the requirements of 1.3.8(2) of the Commission's Procedural Rules. An original and fifteen paper copies must be filed in the Office of the Air Quality Control Commission, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246. Individuals may also obtain party status by submitting an alternative to the proposed rule. The submittal of an alternative proposal must be accompanied by an electronic copy of the alternative proposed rule and all other associated documents as required by the Commission's procedural rules, and must be filed by electronic mail with the Office of the Commission by **October 19, 2012** for party status requests. Alternative rules must also be filed by electronic mail with the Division staff person and with each of the Assistant Attorneys General.

Theresa L. Martin
Air Quality Control Commission
4300 Cherry Creek Drive South, EDO-AQCC-A5
Denver, CO 80246
Theresa.Martin@state.co.us

Doug Decker
Air Pollution Control Division
4300 Cherry Creek Drive South, APCD-B1
Denver, CO 80246
Doug.Decker@state.co.us

Attorney for the Commission

Andrea Gelfuso-Goetz
Attorney General's Office
1525 Sherman Street, 7th Floor
Denver, CO 80203
Andrea.Goetz@state.co.us

Attorneys for the Division

Clay Clarke
Attorney General's Office
1525 Sherman Street, 7th Floor
Denver, CO 80203
Clay.Clarke@state.co.us

Requests received beyond the above 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 who does not comply with the Commission's procedural rules.

STATUS CONFERENCE:

A status conference will be held **October 26, 2012 at 2:30 p.m.**, at the Department of Public Health and Environment 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. Attendance at this status conference is mandatory for anyone who has requested party status.

PREHEARING CONFERENCE/PREHEARING STATEMENTS:

Attendance at the prehearing conference is mandatory for all parties to this hearing. A prehearing conference will be held **November 20, 2012 at 2:30 p.m.** in the Commission Offices at 4300 Cherry Creek Drive South, Denver. All parties must submit by electronic mail a prehearing statement to the Commission Office by close of business **November 13, 2012**. In addition, electronically mailed copies of these documents must be delivered by that date to all persons who have requested party status. A copy of the prehearing statement must also be electronically mailed to the Division point of contact and each of the Assistant Attorneys General identified above by close of business **November 13, 2012**. Any revisions to the prehearing statement must be submitted to the Administrator of the Commission at the prehearing conference and by electronic mail to the Commission Office on the day of the prehearing conference. Any exhibit included in the prehearing statements will be electronically mailed to individual Commissioners for review prior to the hearing, provided the party files electronic copies of such exhibit. Rebuttals to the prehearing statement may be submitted to the Commission Office and all other parties, but must be submitted by close of business **November 27, 2012**.

EXCEPTIONS TO FILE DOCUMENTS BY ELECTRONIC MAIL:

The Commission's Procedural Rules provide for an exception to file documents by electronic mail. If granted an exception to electronic filing pursuant to the provisions of 1.3.8(3) of the Commission's Procedural Rules, the applicant for party status shall file an original and fifteen copies of the prehearing statement in the Office of the Air Quality Control Commission, and shall also deliver copies to each other party, applicant for party status, the Assistant Attorneys General representing the Commission and Division, and the Division staff person for the proceedings, by electronic mail or as otherwise provided by the exception granted under Subsection 1.3.8(3), by the date that the statement is due.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

The proposed rules are intended to assure that the I/M program's emission reduction benefits are maintained while at the same time increasing the flexibility and convenience of motor vehicle emission inspections. The proposed revisions increase new vehicle model-year exemptions from emissions testing from four to seven years. The proposed revisions provide for OBD inspections of 1996 model-year and newer motor vehicles for the first two testing cycles (four model years) after the seven year new vehicle exemption runs out. Procedures are included to require OBD testing for vehicles that are not readily testable using I/M-240; and to require I/M-240 testing for vehicles that are not readily testable with OBD. Visual inspections of emission control equipment are eliminated on 1996 model-year and newer motor vehicles. To clarify and assure compliance with the federal requirements at Title 40, Part 51, Subpart S, 51.357, the current practice of requiring a full retest after a gas cap failure is being required as part of the evaporative fuel control inspection procedures.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103, and 25-7-110, -110.5 and -110.8 C.R.S., as applicable and amended, with the Procedural Rules of the Commission, the statutory authority provided in Sections 42-4-301 through 42-4-316, C.R.S., 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 15th day of November 2012 at Denver, Colorado

Colorado Air Quality Control Commission



Michael Silverstein, Administrator