

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 29

EMISSION REDUCTION REQUIREMENTS FOR LAWN AND GARDEN EQUIPMENT

5 CCR 1001-33

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Outline of Regulation

PART A Emission Reduction Requirements for Lawn and Garden Equipment

PART B Statement of Basis, Specific Statutory Authority, and Purpose

Pursuant to Colorado Revised Statutes § 24-4-103 (12.5), materials incorporated by reference are available for public inspection during normal business hours, or copies may be obtained at a reasonable cost from the Air Quality Control Commission (the Commission), 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. The material incorporated by reference is also available through the United States Government Printing Office, online at www.govinfo.gov. Materials incorporated by reference are those editions in existence as of the date indicated and do not include any later amendments.

PART A Emission Reduction Requirements for Lawn and Garden Equipment

I. Applicability and general provisions

I.A. This part applies to the federal government, state government agencies, and local governments that use lawn and garden equipment, as defined in Section II.

I.B. The use restrictions in Section III. do not apply to lawn and garden equipment.

I.B.1. Used for the purpose of abating or preventing damage during a declared emergency or equipment used by first responders to provide emergency services.

I.B.2. Used for the purpose of fire hazard reduction and post-fire recovery activities in or near the wildland areas or the wildland urban interface.

I.B.3. Used for the purpose of riparian, forest, or grassland management.

I.B.4. Used for public safety purposes.

I.B.5. Nothing in this Section I.B. limits the applicability of the recordkeeping and reporting provisions in Section IV.I.C. Severability. If any section, clause, phrase, or standard contained in these regulations is for any reason held to be inoperative, unconstitutional, void, or invalid, the validity of the remaining portions thereof will not be affected and the Commission declares that it severally passed and adopted these provisions separately and apart.

II. Definitions

- II.A. "Federal government" means the United States and any department, agency, or instrumentality thereof as those terms are used in 42 U.S.C. § 7604(e) (February 16, 2024).
- II.B. "Landscaping" means decorative or protective vegetation that enhances appearance surrounding buildings or roadways; areas that enhance appearance and create useable space for outdoor activities around a home; a planned outdoor space set aside for cultivation, display, and enjoyment of herbs, fruits, flowers, vegetables, trees, or ornamental shrubs.
- II.C. "Lawn and garden equipment" means equipment whose primary purpose is to assist with cleanup or maintenance of a lawn or garden area of a property. Examples of this type include, but are not limited to:
 - II.C.1. Aerators.
 - II.C.2. Brush cutters.
 - II.C.3. Chainsaws.
 - II.C.4. Dethatchers.
 - II.C.5. Edgers.
 - II.C.6. Generators, when used for lawn and garden services (e.g., charging or operating electric equipment).
 - II.C.7. Hedge trimmers.
 - II.C.8. Leaf blowers.
 - II.C.9. Power washers.
 - II.C.10. Push lawn mowers.
 - II.C.11. Pruners.
 - II.C.12. Rotary tillers.
 - II.C.13. String trimmers.
 - II.C.14. Wood splitters.
- II.D. "Lawn and garden services" means landscaping services, grass/lawn mowing, weeding, grass/lawn trimming, removal and disposal of debris and trash, leaf cleanup and removal, planting or maintenance of any plants (e.g., trees, bushes, hedges, shrubs, flowers, other plants). Lawn and garden services do not include activities such as forest or grassland management.
- II.E. "Local government" means municipalities, county governments, city and county governments, public school districts, and special districts.
- II.F. "Municipality" means a city or town as defined in § 31-1-101(6), C.R.S., (2023).

- II.G. “Ozone nonattainment area” means an area within Colorado designated by the Commission and approved by the U.S. Environmental Protection Agency under the Code of Federal Regulations Title 40, § 81.306 (November 30, 2021), in which ambient air concentrations exceed the National Ambient Air Quality Standards for ozone.
- II.H. “Special district” means a quasi-municipal corporation or political subdivision as defined in § 32-1-103(20), C.R.S., (2023).
- II.I. “State government agency” means any agency, board, bureau, commission, department, division, institution, or office of the executive or judicial departments of state government, including institutions of higher education, located within the state of Colorado.
- III. Use restrictions
 - III.A. Beginning June 1, 2025, no state government agency in Colorado can use gasoline-powered push and hand-held lawn and garden equipment with an internal combustion engine smaller than 19 kW (25 horsepower) between June 1 and August 31 of each year.
 - III.B. Beginning June 1, 2025, neither the federal government nor any local government can use gasoline-powered push and held-held lawn and garden equipment with an internal combustion engine smaller than 7 kW (10 horsepower) between June 1 and August 31 of each year in the ozone nonattainment area.
 - III.C. The restrictions in Sections III.A. and III.B. also apply to lawn and garden services contracted for and provided to the federal government, a state government agency, or a local government.
- IV. Recordkeeping and reporting
 - IV.A. State government agencies, local governments, and the federal government must maintain records for five (5) years demonstrating compliance with Sections III.A. through III.C. Records must be made available to the Division upon request.
 - IV.B. On or before June 1, 2026, and June 1 of each year thereafter, all state government agencies, local governments, and federal government conducting or contracting for lawn and garden services subject to Section III. must submit information for the preceding calendar year (e.g., for the June 1, 2026, report submit information for the period of June 1, 2025, through August 31, 2025) using a Division-approved format. The report must include:
 - IV.B.1. A list of all gasoline-powered push and hand-held lawn and garden equipment with an internal combustion engine smaller than 19 kW (25 horsepower) used or potentially used by the state government agency from June 1 to August 31.
 - IV.B.2. A list of all gasoline-powered push and hand-held lawn and garden equipment with an internal combustion engine smaller than 7 kW (10 horsepower) used or potentially used by the federal government or local government within the ozone nonattainment area from June 1 to August 31.
 - IV.B.3. For the equipment listed in Section IV.B.1. and IV.B.2.,
 - IV.B.3.a. The lawn and garden equipment type, horsepower, manufacturer.

IV.B.3.b. For gasoline-powered equipment used during the June 1 through August 31 time period, documentation demonstrating the circumstances requiring the use of such equipment such as supply chain issues, need for heavy-duty scale equipment, or a purpose listed in Section I.B.

IV.B.4. The company name and designated contact person for the lawn and garden services contractor(s), if applicable, and description of the services (e.g., list of activities, duration, frequency, expected equipment use) provided.

IV.C. Each report must be accompanied by a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

PART B STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

I. Adopted: February 16, 2024

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedure Act §24-4-103, the Colorado Air Pollution Prevention and Control Act §§ 25-7-110 and 25-7-110.5, and the Air Quality Control Commission's (Commission) Procedural Rules.

Basis

On October 7, 2022, EPA reclassified the Denver Metro/North Front Range (DM/NFR) to severe for the 2008 8-hour Ozone National Ambient Air Quality Standard of 75 parts per billion (ppb) (2008 NAAQS), after 2019-2021 ozone data failed to show attainment. See 86 Fed. Reg. 60926. Separately, EPA has also designated the DM/NFR as marginal nonattainment for the 2015 ozone NAAQS of 70 ppb, effective August 3, 2018 (83 Fed. Reg. 25776 (June 4, 2018)). On October 7, 2022, EPA reclassified the DM/NFR and northern Weld County to moderate, after 2019-2021 ozone data failed to show attainment. See 86 Fed. Reg. 60897.

In a continued effort to reduce ozone precursor emissions and achieve ozone NAAQS, the Commission adopted a new Regulation Number 29, Emission Reduction Requirements for Lawn and Garden Equipment to limit the use of certain gasoline-powered lawn and garden equipment statewide and specifically in the ozone nonattainment area during June through August; thereby reducing the ozone precursors emissions emitted from this equipment.

Specific Statutory Authority

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, NOx, methane and other hydrocarbons) and provides the Commission broad authority to regulate air pollutants. § 25-7-105(1)(a)(I) directs the Commission to adopt a state implementation plan (SIP) to attain the NAAQS. § 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program.

§ 25-7-106 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) and (2) of the Act authorize the Commission to promulgate regulations requiring effective and practical air pollution controls for significant sources and categories of sources and emission control regulations pertaining to nitrogen oxides and hydrocarbons.

Purpose

In a continued effort to reduce ozone precursor emissions, the Commission adopted strategies to reduce emissions from gasoline-powered land and garden equipment.

The Commission adopted an in-use prohibition on the use of smaller push and hand-held gasoline-powered lawn and garden equipment such as aerators, brush cutters, chainsaws, push lawn mowers, leaf blowers, power washers, rotary tillers, shredders, string trimmers, and other similar push or hand-held gasoline-powered lawn and garden equipment by a local government entity, including municipality, county, city and county, public school district, special district or their contracted commercial entity in the ozone nonattainment area for a period of time between June 1 to August 31. The Commission determined to also apply these restrictions in the ozone nonattainment area to the federal government. These restrictions apply more broadly statewide when the subject equipment is used by state government agencies. The restrictions apply to the lawn and garden equipment used by the local government, state government agency, and federal government, regardless of the purpose for which that equipment is used. However, while the use restrictions also apply to the entities contracting to provide the lawn and garden services to these governments, the restrictions only apply to the equipment when the contracted entity is providing the services. Alternative equipment may include electric and manually operated lawn and garden equipment, which is already readily available. Entities may also be able to defer lawn and garden activities to periods outside of the June through August timeframe, alleviating the need to acquire or use alternative equipment. Subject entities will comply with annual reporting to ensure compliance and gather additional information about this strategy. The Commission recognizes that the first few seasons of implementation and enforcement will need to be focused on engagement and outreach to ensure the successful, long term implementation of the rule.

The use prohibition does not apply to activities conducted by subject entities for the purposes of preventing or abating damage such as forest, riparian, noxious weed, or grassland management; emergency response; public safety; or fire hazard reduction. However, to further understand the equipment needed for these activities, as well as other special circumstances, the Commission adopted a reporting requirement for state and local governments and the federal government to describe the circumstances requiring the use of gasoline-powered equipment instead of electric equipment. Restrictions on residential use of gasoline-powered lawn and garden equipment are also not included in this regulation. The Commission did not, at this time, adopt use restrictions on large gasoline-powered lawn and garden equipment such as riding tractors, due to the costs and limitations on readily available equipment.

The Commission considered restrictions on use of smaller push and hand-held gasoline-powered lawn and garden equipment by commercial contractors as well as a sales prohibition on this equipment and recognizes the importance of replacing gasoline-powered lawn and garden equipment with electric alternatives to reduce the emissions of ozone precursors and other pollutants. The Commission received testimony noting that the market is already trending in this direction and support the acceleration of this market transition. To that end, the Commission asks the Division to monitor the market share of electric lawn and garden equipment and report this information to the Commission. The Commission expects the Division to request a rulemaking hearing be held no later than the end of 2025 for commercial use restrictions of gasoline-powered push and hand-held lawn and garden equipment. The Division should also consider whether to include a sales prohibition in its rulemaking request.

Further, this will include any typographical, grammatical and formatting errors throughout the regulation.

Incorporation by Reference

The Commission will update regulatory references as needed as opportunities arrive.

Additional Considerations

Colorado must continue to reduce ozone concentrations to attain both the 2008 ozone NAAQS and the 2015 ozone NAAQS. The CAA does not expressly address all of the provisions adopted by the Commission. Rather, federal law establishes the ozone NAAQS and requires Colorado to develop a SIP adequate to attain the NAAQS. Therefore, the Commission adopted certain revisions to Regulation Number 29 to make progress towards attainment of the 2008 and 2015 ozone NAAQS. These revisions do not exceed or differ from the federal act due to state flexibility in determining what control strategies to implement to reduce emissions. However, where the proposal may differ from federal rules under the federal act, in accordance with § 25-7-110.5(5)(b), CRS, the Commission determines:

- I. Regulation Number 29 restricts the use of certain lawn and garden equipment within a specified time of year. There are federal emission standards for some lawn and garden equipment but there are no comparative federal use restrictions.
- II. The federal emissions standards discussed in (I) are primarily technology-based in that they largely prescribe the use of specific technologies to comply.
- III. The CAA establishes the 2008 and 2015 NAAQS and requires Colorado to develop SIP revisions that will ensure attainment of the NAAQS. The ozone NAAQS was not determined taking into account concerns unique to Colorado. Similarly, EPA develops equipment standards considering national information and data, not Colorado specific issues or concerns.
- IV. In addition to the 2008 NAAQS, Colorado must also comply with the lower 2015 ozone NAAQS. Regulation Number 29 may improve the ability of the regulated community to comply with new requirements insofar as the estimated emission reductions may prevent or reduce the need to adopt additional emission reduction strategies into the SIP for the more stringent NAAQS. The emission reductions estimated from the implementation of Regulation Number 29 will also improve public health and environmental quality.
- V. EPA has established Colorado's ozone attainment deadlines. There is no timing issue that might justify changing the time frame for implementation of federal requirements.
- VI. The revisions to Regulation Number 29 address emissions from lawn and garden equipment in a cost-effective manner, allowing for continued growth of Colorado's industry.
- VII. The revisions to Regulation Number 29 establish reasonable equity for owners and operators subject to these rules by providing the same standards for similarly situated entities.
- VIII. If Colorado does not attain the ozone standards, EPA will further reclassify Colorado's ozone nonattainment areas. This outcome may subject others to increased costs due to the implementation of any additional, necessary permitting actions and/or emission reduction strategies.
- IX. Where necessary, the revisions to Regulation Number 29 include minimal monitoring, recordkeeping, and reporting requirements that correlate, where possible, to similar federal or state requirements.
- X. Demonstrated technology is available to comply with Regulation Number 29.
- XI. As set forth in the Economic Impact Analysis, the revisions to Regulation Number 29 will reduce emissions in a cost-effective manner.

- XII. Alternative rules could also provide reductions in VOC and NO_x to help to attain the NAAQS. However, a no action alternative would not achieve the reductions from lawn and garden equipment associated with Regulation Number 29.

As part of adopting the revisions to Regulation Number 29, the Commission has taken into consideration each of the factors set forth in § 25-7-109(1)(b), C.R.S.

Colorado must continue to reduce ozone concentrations to attain both the ozone NAAQS. To the extent that § 25-7-110.8, C.R.S requirements apply to this rulemaking, and after considering all the information in the record, the Commission hereby makes the determination that:

- I. These rules are based upon reasonably available, validated, reviewed, and sound scientific methodologies, and the Commission has considered all information submitted by interested parties.
- II. Evidence in the record supports the finding that the rules shall result in a demonstrable reduction of VOCs and NO_x emissions.
- III. Evidence in the record supports the finding that the rules shall bring about reductions in risks to human health and the environment that justify the costs to implement and comply with the rules.
- IV. The rules are the most cost-effective to achieve the necessary and desired results, provide the regulated community flexibility, and achieve the necessary reduction in air pollution.
- V. The rule will maximize the air quality benefits of regulation in the most cost-effective manner.

Editor's Notes

History

New rule eff. 04/15/2024.