

STATE OF COLORADO

Bill Ritter, Jr., Governor
Martha E. Rudolph, Executive Director

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

COLORADO AIR QUALITY CONTROL COMMISSION

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**Colorado Department
of Public Health
and Environment**

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 will hold a rulemaking hearing to consider revisions to Regulation Number 11 to add a Nitrogen Oxides (NOx) tailpipe emission limit to the selection criteria used in the Clean Screen Program. This change will enhance the environmental effectiveness of the Automobile Inspection and Readjustment (AIR) Program as a whole by helping to ensure that vehicles with high NOx emissions are not exempted from testing through the Clean Screen Program. This change will also address one of the key recommendations by the State Auditor's Office during the 2009 performance audit of the AIR Program.

FEDERAL REQUIREMENTS:

The federal act does not require the Commission to make any of the rule revisions that are the subject of this Notice of Public Rulemaking Hearing. A proposed Statement of Basis, Specific Statutory Authority, and Purpose and a regulatory analysis (if one has been requested) will be available for inspection no later than five (5) days prior to the hearing. The proposed language for the rule revision is attached to and made a part of this notice.

HEARING SCHEDULE:

DATE: August 19, 2010
TIME: 9:00 AM
PLACE: Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South, Sabin Conference Room
Denver, CO 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:

In order to obtain party status at the hearing, compliance with several requirements as defined in the Commissions Procedural Rules is necessary. 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 **June 21, 2010**. 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 not comply with the requirements of 1.3.8(2) of the Commissions Procedural Rules. An original and a specified number of 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 through the submittal of an initial alternative rule to the proposed rule. The submittal of an alternative proposal must be accompanied by an electronic copy of the initial 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 the date specified for party status requests. Initial alternative rules must also be filed by electronic mail with the Division staff person and with each of the Assistant Attorneys General.

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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 that does not comply with the Commission's procedural rules.

STATUS CONFERENCE:

A status conference will be held **June 25, 2010 at 2:00 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 **July 29, 2010 at 1:00 p.m.** in the Commission Offices at 4300 Cherry Creek Drive South, Denver. All parties must submit by electronic mail a preliminary prehearing statement to the Commission Office by close of business **July 23, 2010**. 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 Attorney's General identified above by close of business **July 23, 2010**. 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 by close of business **August 3, 2010**.

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 Commissions 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 that same day.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

The Commission promulgates these regulatory changes pursuant to its authority to establish rules governing the Clean Screen Program including clean screen emission levels pursuant to Sections 42-4-306(23)(a) and 42-4-306(6)(a), C.R.S. 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 amended, the Procedural Rules of the Commission 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 1st day of June 2010 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in black ink, reading "Douglas A. Lempke". The signature is written in a cursive style with a large, looping 'D' and 'L'.

Douglas A. Lempke, Administrator