

BEFORE THE AIR QUALITY CONTROL COMMISSION  
STATE OF COLORADO

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**PRELIMINARY PREHEARING STATEMENT OF COLORADO DEPARTMENT OF  
PUBLIC HEALTH AND ENVIRONMENT, AIR POLLUTION CONTROL DIVISION**

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IN THE MATTER OF PROPOSED REVISIONS TO THE AMBIENT AIR QUALITY  
STANDARDS REGULATION, REGULATION NUMBERS 3, 7, AND 11 FOR THE  
DENVER METROPOLITAN & NORTH FRONT RANGE AREA OZONE ACTION PLAN.

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The Colorado Department of Public Health and Environment, Air Pollution Control Division (“Division”) submits the following Prehearing Statement in this matter.

EXECUTIVE SUMMARY

The Colorado Department of Public Health and Environment, Air Pollution Control Division (“Division”) joined the Regional Air Quality Council (RAQC) and the North Front Range MPO (NFRMPO) to propose an Ozone Action Plan that would revise Colorado’s Federally required State Implementation Plan, as well as revisions to State-only rules. Based on stakeholder input and Air Quality Control Commission (Commission) concerns that this plan may not be within the Commission’s authority, the Division is now proposing two alternative rule packages. The first alternative proposal reflects a number of specific revisions and enhancements to the initial proposal, in light of stakeholder comments and Division consideration. In that alternative, for the reasons set forth below, the Division has decided to propose that the current system-wide control program for condensate tanks be maintained and enhanced. The second alternative proposal provides an option for the Commission to adopt the minimum regulatory measures in the formal State Implementation Plan while reserving the large majority of the proposed regulatory measures for State authorities as part of the broader ozone action plan (relating to the Commission’s compliance with Sec. 25-7-105.1). The proposed regulatory measures are the same in both alternative proposals. As directed by Governor Ritter, the primary objective of this proceeding is to develop a plan to ensure compliance with the current 8-Hour Ozone National Ambient Air Quality Standard set at 0.08 parts per million (ppm). Consistent with this objective, this plan would also proactively and pragmatically reduce ozone levels to make progress toward compliance with the new 2008 standard set at 0.075 ppm through the implementation of State-only rules in the ozone non-attainment area. Finally, the plan if adopted would serve to reduce ozone precursors by more than 120 tons per day (more than 100 tpd volatile organic compounds (VOCs) and approximately 20 tpd nitrogen oxides (NO<sub>x</sub>)) in the non-attainment area and areas across the State where potential ozone problems may reasonably be anticipated.

On November 20, 2007, the United States Environmental Protection Agency designated the 9-county Denver Metro Area/North Front Range (DMA/NFR) area as non-attainment for the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ground-level ozone (0.08

ppm). This designation signifies that the area violated the NAAQS, which triggered the requirement that Colorado submit an attainment plan as specified under Sections 110 and 181 of the federal Clean Air Act. A plan to re-attain the standard must be submitted to EPA no later than July 1, 2009. This plan must satisfy EPA that the DMA/NFR Non-Attainment Area (NAA) will comply with the ozone NAAQS no later than the 2010 ozone season. The Commission must act in December to adopt an attainment plan that will re-establish compliance with the NAAQS so that the plan may be considered by the General Assembly during the 2009 session.

Ground-level ozone is formed when volatile organic compounds (VOCs) react with oxides of nitrogen (NO<sub>x</sub>) and other pollutants in the presence of sunlight, especially on long, hot, sunny days during the months of May through September. The Division's proposed revisions focus primarily on reducing VOC emissions as a means of reducing ozone concentrations. While NO<sub>x</sub> emissions also play a significant role in ozone formation, as part of this plan the Division is relying on existing mobile source and non-road engine strategies, which are expected to reduce NO<sub>x</sub> emissions 7% by 2010. Additionally, the Division expects that further NO<sub>x</sub> reductions will be achieved through an upcoming Regional Haze SIP process, recent developments concerning the retirement of electric generating units in the Denver metro area and across the State, continued motor vehicle fleet turnover, and other NO<sub>x</sub> emission reduction strategies developed during the next few years for various State initiatives.

The Division's proposed revisions to Regulations 3, 7, 11, and the Ambient Air Quality Standards are part of an overall ozone reduction strategy to ensure attainment of the ozone NAAQS by 2010. The Division believes this strategy accomplishes six objectives: A) generally reduce VOC and NO<sub>x</sub> emissions in the ozone NAA, B) revise the control requirements for oil and gas condensate tanks by further refining and enhancing the current system-wide control strategy in the ozone NAA, C) expand VOC RACT requirements such that all ozone NAAs are subject to Regulation No. 7's RACT requirements, D) clarify how the RACT requirements in Regulation Nos. 3 and 7 interact in the ozone NAA, E) improve the Division's inventory of specific source category emissions state-wide; and F) make typographical, grammatical and formatting changes for greater clarity and readability.

The Division is providing two alternatives to the initial proposal that attempt to better accomplish these objectives.

## **SUMMARY OF ALTERNATIVE RULES AND PROPOSED CONTROL STRATEGIES**

*Alternative No. 1: Initial proposal with modifications to the condensate tanks and pneumatic-actuated devices provisions – new controls and provisions remain in the Federal SIP and State-only categories as initially proposed*

The Division intends for this proposal to represent a level of control that is equivalent to the initial Ozone Action Plan offered at the request for hearing, with some notable changes.

First, each oil and gas company in the NAA, over 30 tpy, is currently subject to a 75% system-wide control requirement for its condensate tanks. The Division's initial proposal

requires that, as a SIP revision, the 75% system-wide provisions be increased to 80% beginning May 1, 2009 and that a transition to a threshold emission control approach occur by May 1, 2010, beginning with tanks that emit more than 10 tons of VOC emissions per year. Under the alternative proposed today, the Division is foregoing the threshold approach for 10 tpy tanks in favor of retaining the system-wide control requirement. Because an 81% system-wide control requirement provides equivalent emission reductions to the 10 tpy threshold approach, the Division proposes as a SIP revision an 81% system-wide condensate tank control requirement, beginning May 1, 2009, with further system-wide emission reductions from condensate tanks, as State-only measures, as described in “Seventh B’ below.

Second, as initially proposed as a SIP revision and preserved in this alternative, all new and modified tanks must be controlled during the first 90 days of operation.

Third, as initially proposed as a SIP revision and preserved in this alternative, an auto ignition system must be employed at all controlled condensate tanks that utilize a flare control device.

Fourth, the Division is proposing, as a SIP revision, to apply electronic surveillance requirements to tanks with uncontrolled VOC emissions equal to and greater than 100 tpy; this will result in the installation and operation of about 130 surveillance systems covering about 25% of the uncontrolled VOC emissions in the NAA. The Division initially proposed to require electronic surveillance for all condensate tanks with emission controls as a SIP revision.

Fifth, the Division is no longer proposing a SIP revision that includes controls for pneumatic-actuated devices because USEPA expectations for demonstration of benefits made the program infeasible; consequently, the pneumatics controls are proposed to be State-only provisions.

Sixth, as initially proposed and preserved in this alternative, the Division is proposing as a SIP revision:

- A) the more stringent inspection and maintenance program cut-points under Regulation No. 11;
- B) the expansion of Regulation No. 7 VOC RACT requirements to the entire NAA; and
- C) the modifications to the exemptions in Regulation No. 3.

Seventh, as initially proposed and preserved in this alternative, the Division is proposing as state-only provisions:

- A) expanding the Regulation No. 11 I/M provisions to the North Front Range region;
- B) increasing condensate tank system-wide control requirements in the NAA to 90% by May 1, 2011 and 95% by May 1, 2012 (these percent reductions provide equivalent emission reductions to the initially proposed 5 tpy and 2 tpy threshold levels); and
- C) requiring controls on existing reciprocating internal combustion engines located throughout the State by May 1, 2010.

Eighth, as initially proposed as a SIP revision and preserved in this alternative, the emissions budgets as developed will be retained. Clarifying language regarding the applicability of the various budgets has been added.

Ninth, the attainment demonstration in the Ozone Action Plan is revised to rely on the 2010 base case modeling, and the additional control case modeling moved to the “weight of the evidence” analysis.

**Alternative No. 2:** *Initial proposal with modifications to the condensate tanks and pneumatic-actuated devices provisions – most new provisions are to be State-only enforceable and no new controls are to be submitted to EPA as part of the Federally-enforceable SIP*

In response to concerns expressed by the Commission regarding provisions in State law (C.R.S. 25-7-105.1) that restrict what can and cannot be submitted the Environmental Protection Agency for inclusion in the Federal SIP, the Division has prepared for the Commission’s consideration this alternative proposal. This proposal relies on only those measures currently adopted and included in the Federal SIP to make the formal SIP demonstration of attainment. However, in order to achieve additional ozone benefits through State-only measures, the Division intends for this proposal to match the level of control offered in the initial Ozone Action Plan presented at the request for hearing, as well as Alternative No. 1. All provisions described in Alternative No. 1 are retained in Alternative No. 2. The difference is that Alternative No. 2 proposes no new emission control measures for the Federal SIP. Alternative No. 2 does propose SIP revisions to eliminate exemptions in Regulation No. 3 and to clarify RACT requirements in Regulation No. 7. The Division proposes these SIP revisions because administering differing State and Federal exemptions in the permitting and compliance arenas is confusing and not practical for both the Division and industry.

The most significant changes to the initial proposal impact the oil and gas measures. To summarize the proposed State-only condensate tanks control program, the Division proposes the following control requirements for each oil and gas company with condensate tanks.

- 81% system-wide control by May 1, 2009;
- 90% system-wide control by May 1, 2011;
- 95% system-wide control by May 1, 2012;
- All new and modified tanks are subject to 95% emissions control;
- All new tanks must be controlled during the first 90 days of operation;
- All flare-controlled tanks must employ an auto ignition system; and
- All tanks with uncontrolled emissions equal to or greater than 100 tpy must employ an electronic surveillance system.

## **SUPPORTING INFORMATION AND BACKGROUND**

### **Condensate Tanks in the Non-Attainment Area**

The Division’s proposal revises current condensate storage tank control requirements in Regulation No. 7, Section XII by reorganizing the rule, adding/revising definitions, setting

additional control requirements for tanks, refining the current system-wide control strategy, adding monitoring requirements, and revising recordkeeping and reporting requirements.

The Division and the RAQC have proposed an Ozone Action Plan for hearing in December that includes a plan to make substantial changes to Regulation No. 7 concerning the control of VOC emissions from condensate tanks. The Ozone Action Plan proposed to change the “system-wide” approach to a “threshold” approach whereby operators must install controls (in most cases, flares) on all condensate tanks with uncontrolled emissions greater than a specified quantity. Further, the Division now proposes an alternative rule that maintains the system-wide control program for existing tanks. The Division has had substantial dialogue with stakeholders via written comment and meetings during which much of the analysis we have relied on to justify this change has been carefully scrutinized. This process has caused the Division to recognize that the system-wide approach is substantially reducing uncontrolled emissions from condensate tanks operated by the largest producers. The seven largest operators in the NAA account for approximately 95% of total uncontrolled VOC emissions. Additionally, the system-wide control program offers larger producers more latitude in installing control devices within their tank batteries in the most effective and efficient way to achieve the greatest emission reductions at the lowest cost.

Conversely, smaller operators have struggled to manage under the system-wide program. The Division has witnessed some compliance issues associated with the operation of flares as well as relatively complicated record keeping and reporting requirements used with this program. Instead of a wholesale change in a control program that is achieving substantial emissions reductions, the Division will redouble efforts to work with the smaller operators to address specific compliance issues.

Based on 2007 Air Pollutant Emission Notices, there were 5,540 tank batteries in the Non-Attainment Area. Emissions were controlled at 2,138 of these tanks, leaving 3,402 tanks that weren't controlled. In 2006, the total anthropogenic VOC inventory in the NAA was estimated to be 479 tons per day. Total oil and gas point and area sources emitted 185 tons of VOCs per day in 2006 and are predicted to emit 203 tons of VOCs per day in 2010. Condensate tanks and pneumatic devices accounted for approximately 82% of 2006 VOC emissions from oil and gas sources. Condensate tanks emitted 127 tons of VOCs per day in 2006 and are predicted to emit 130 tons of VOCs per day in 2010. Condensate tanks accounted for approximately 68% of oil and gas related 2006 VOC emissions.

Regulation No. 7 currently requires 75% control on a weekly basis of uncontrolled VOC emissions from most operators on a system-wide basis during the ozone season. All condensate tanks throughout the State with uncontrolled emissions equal to or greater than 20 tons of VOC emissions per year must have also been controlled by May 2008. Operators owning condensate tanks with combined uncontrolled VOC emissions of less than 30 tpy are currently exempt from controlling emissions from their tanks. Under the system-wide control program, each company can decide which tanks with less than 20 tpy of uncontrolled emissions they will control, as long as the average control across their entire system is at least 75%. It is possible that some tanks emitting significant quantities of VOCs may not be controlled, as long as the operator is meeting the 75% standard on a system-wide basis. While the 75% system-wide control strategy was a very positive step, the 2007 ozone season demonstrated that more needs to be done. Given the need to further reduce VOC emissions in the NAA, the Division recommends that the Commission adopt an alternate control package proposed by the Division, described as follows

First, the system-wide control program that the Division now offers in its alternative proposals would apply to existing tanks. While this proposal maintains the system-wide approach, the Division seeks to improve reductions of uncontrolled emissions, from the current 75% to 81% by 2009. This proposal would account for approximately 25 tons per day in VOC reductions. This measure, when combined with the other relevant measures now before the Commission, would strike a reasonable balance between the need to assure attainment of the ozone NAAQS in 2010 and the need to assure that these new requirements are realistic. An 81% control level achieves VOC emission reductions that are comparable to the reductions we expected from the control measures in the original 10 tpy threshold proposal, taking in to account an 83% rule effectiveness factor. That factor was developed based on EPA's Rule Effective Guidance and discussions with EPA. Under Alternative No. 1, these provisions are proposed to be part of the Federal SIP; under Alternative 2., they are proposed as State-only enforceable.

Second, the system-wide control program increases condensate tank control requirements in the NAA to 90% by May 1, 2011 and 95% by May 1, 2012. This control regime provides equivalent emission reductions to the initially proposed 5 tpy and 2 tpy threshold levels and accounts for approximately 40 tons per day in VOC reductions. Under both Alternative Nos. 1 and 2, these provisions are proposed as State-only enforceable.

Third, the Division is also proposing to reduce emissions from new or modified condensate tanks that are used at wells that are drilled, stimulated or recompleted after February 1, 2009 by requiring that operators control VOC emissions from these tanks by 95% during the first 90 days from first production, when emissions are typically at their greatest volume. The Division recognizes that annual emissions from ongoing production after the first 90 days may not exceed control thresholds. Since the production level cannot be known until the well is producing, the Division believes it makes sense to take a conservative approach by controlling emissions. After the first 90 days from first production, the operators would be allowed to remove the controls if the operator can achieve its system-wide compliance requirements without controlling the tank that the well serves. Under Alternative No. 1, these provisions are proposed to be part of the Federal SIP; under Alternative 2., they remain as State-only provisions. Flares are a relatively simple, extremely cost effective, and reasonably reliable means of controlling VOC emissions from condensate tanks. If they are operating correctly, flares can eliminate 98% of VOC emissions. The Division's alternate proposals also recognize that Vapor Recovery Units and other Division-approved pollution prevention devices may be used to meet required reductions under the overall system-wide regime.

#### *Monitoring, Record Keeping and Reporting for Condensate Tanks*

Monitoring and record keeping requirements remain mostly the same as those proposed in the original request for rulemaking. Operators are currently required to check the control equipment weekly to ensure it is operating. If that equipment fails, any emissions from that tank are considered by the Division as uncontrolled emissions from the date of the previous inspection until the next inspection.

The Division still proposes a basic electronic surveillance system that would alert operators to flare outages and provide for a quicker corrective action. However, the Division has modified its initial proposal so that electronic surveillance would be required on those tank batteries with 100 tpy of uncontrolled VOC emissions by May 1, 2010. For new 100 tpy tanks, electronic

surveillance is required 180 days from the date of first production. According to Division records, this requirement will cover about 130 existing tanks that emit about 25% of the NAA's condensate tank "flash" emissions. Under Alternative No. 1, these provisions are proposed to be part of the Federal SIP; under Alternative 2., they remain as State-only provisions.

The Division also proposes that operators will install and operate auto-igniters on their existing and new flares by May 1, 2009 or within 180 days from first having installed the combustion device - whichever comes later. In many cases, the facilities at which these flares operate are remote and unmanned. Flares operate with pilot lights that ignite natural gas as it is vented from the tanks. Pilot lights occasionally go out. Automatic igniters have sensors to read an outage and have strikers that attempt to re-light the pilot light, but cannot ensure the pilot will be relit. Under Alternative No. 1, these provisions are proposed to be part of the Federal SIP; under Alternative 2., they remain as State-only provisions.

Under the current rules, the Division receives semi-annual emissions data, which is broken down by week, and monthly "control device change reports." Operators submit semi-annual reports of company-wide compliance on a per tank basis, on Division-approved spreadsheets. In practice, the Division is significantly challenged in verifying that tanks are being properly controlled until the semi-annual reports are received. Therefore, the Division is proposing that in addition to the semi-annual reports, the Division can request monthly information and the operator would be required to submit the monthly data requested on a Division spreadsheet within five (5) working days of the request. Finally, responsible officials of each company under this regulatory program will be required to certify to the accuracy of submitted reports. . Under Alternative No. 1, these provisions are proposed to be part of the Federal SIP; under Alternative 2., they remain as State-only provisions.

#### *Pneumatic Controllers in the Non-Attainment Area*

The Division is proposing a program to take advantage of an industry initiative to eliminate hi-bleed pneumatic controllers and thereby address a significant source of uncontrolled VOC emissions. A pneumatic device is an instrument that is actuated by natural gas. These devices are used to operate valves that regulate process parameters such as liquid level, gas level, pressure, valve position, liquid flow, gas flow and temperature.

The Division estimates that there were approximately 41,500 pneumatic devices in the NAA in 2006. Of those, approximately 5,500 were high-bleed devices. The Division estimates that pneumatic devices emitted approximately 25 tons per day of VOCs in 2006 and could account for as much as 31 tons per day in 2010. These emissions represent 13 and 15 percent of the total VOC emissions from oil and gas sources in the NAA in 2006 and 2010, respectively. Therefore, emission reductions related to this source category have the potential to be significant.

The Division proposes to require that operators install low-bleed devices in most cases after February 1, 2009. Existing high-bleed controllers would be replaced or retrofitted with low-bleed pneumatic controllers or controllers that emit an equivalent or less VOCs by May 1, 2009 as State-only provisions under either Alternative No. 1 or 2. The Division estimates that these requirements would result in VOC reductions of approximately 23 tpd. The Division proposes exceptions that allow high-bleed controllers that are necessary for safety purposes, as well as for circumstances where the systems in which they are used cannot properly operate without a high-

bleed device, with Division approval. Operators would need to inspect and maintain in-use high-bleed controllers on a monthly basis. These revisions require operators to physically tag the in-use high-bleed controllers to enable the Division to track compliance. Operators would keep logs of the number of in use high-bleed controllers, as well as the justification that high-bleed controller remains in place, and the inspection and maintenance of the in-use high-bleed controllers.

The Division anticipates that the burden on the industry associated with this rule would be relatively minor. The oil and gas industry recognizes the efficiency of these devices and has already voluntarily begun replacing or retrofitting high-bleed controllers with low-bleed controllers.

#### *Reasonably Available Control Technology (RACT) in the Non-Attainment Area*

If the Commission chooses to adopt control measures in the SIP through Alternative No. 1, the Division would propose that the following RACT measures in proposed Regulation No. 7 go into the SIP. If the Commission chooses Alternative No. 2, the Division would propose the following Regulation No. 7 measures be adopted as state-only requirements.

Requirements currently in Regulation No. 3, Part B, Section III.D. require RACT in ozone NAAs for all new and modified sources emitting VOC or NO<sub>x</sub> and commencing construction on or after February 1, 2009. The proposed revision would specify that pursuant to Regulation No. 7, Section II.C. all existing sources that emit 100 tons per year of VOC emissions and that are located in the 8-hour ozone NAA become subject to RACT. This requirement currently applies only in the 1-hour ozone attainment/maintenance area, which is a subset of the 8-hour ozone NAA. The proposal is to expand the requirement to the full 8-hour NAA.

Division has also added a definition of “Ozone Non-attainment Area” in Regulation No. 7, Section II.A.17. While the only NAA at this time is the Denver Metropolitan Area/North Front Range, it is quite possible that Colorado will see additional non-attainment designations once the new ozone standard is implemented. The Division fully expects that the standards and requirements that apply to the current NAA will need to apply to any such future area. It would be more efficient and effective to implement these requirements by this means.

The Division also proposes to expand the application of Regulation No. 7 to all subject sources in any ozone NAA and attainment/maintenance areas. This regulation currently applies only in the 1-hour ozone attainment/maintenance area, which consists of the Counties of Jefferson and Douglas, the Cities and Counties of Denver and Broomfield, Boulder County (excluding Rocky Mountain National Park), Adams County west of Kiowa Creek, and Arapahoe County west of Kiowa Creek. Accordingly, the remaining portions of the 8-hour ozone NAA, consisting of portions of Adams, Arapahoe, Larimer and Weld Counties are not subject to Regulation No. 7 RACT. The proposed expansion would apply to some sources that were previously outside of its geographic scope. These sources are not currently subject to adopted Control Technique Guidelines (CTGs) or general RACT requirements. Control Techniques Guidelines are emission reduction procedures or technologies that constitute RACT for specified smaller source categories. CTG examples include Stage I vapor control systems for gasoline service stations, surface coating of large appliances, and pneumatic rubber tire manufacturers. This RACT requirement is in the SIP for the 1-hour area. EPA requires that Colorado adopt

CTGs as an equivalent to RACT. This revision ensures equity across all designated ozone non-attainment areas, and complies with EPA's requirement that CTGs apply in all ozone non-attainment areas.

Case-by-case RACT requirements of Sections I and II and general RACT requirements of Sections I and III- XVIII do not apply consistently to all ozone NAAs. Specific sections sometimes apply in the one-hour ozone attainment/maintenance area, the eight-hour ozone control area, and sometimes State-wide. This revision expands Regulation No. 7's applicability to any ozone NAA or attainment/maintenance area. This is done intentionally to apply Regulation No. 7 requirements to current as well as any future ozone NAA or attainment maintenance areas in Colorado.

This revision also clarifies how the Regulation No. 3 RACT requirements interact with Regulation Number No. 7. Currently, Regulation No. 3, Part B, Section III.D. requires all new and modified minor sources of pollutants or precursors to pollutants for which the area has been designated as being in non-attainment or is currently in attainment/maintenance with a NAAQS to submit a RACT analysis and implement RACT. Further, Regulation No. 7 is currently unclear on whether existing sources that are modified become subject to new source requirements or not. This revision clarifies that existing sources that are modified are subject to the Regulation No. 3, Part B, Section II.D. requirements and are considered to be a new source for the purposes of Regulation No. 7.

This revision also clarifies that the case-by-case RACT requirements of Regulation No. 7, Section II.C. only apply to sources at which all air pollution-generating activities are already subject to RACT.

#### *Reciprocating Internal Combustion Engines State-wide*

The Division intends to proactively address potential ozone standard exceedances across the State as well as ozone transport to the Front Range. Accordingly, the Division proposes to modify Regulation No. 7 to extend Reciprocating internal combustion engines (RICE) controls that now apply in the NAA to apply State-wide as State-only provisions under either Alternative No. 1 or No. 2. RICE are used extensively for natural gas pipeline compression at oil and gas production facilities across Colorado. It is estimated that there are about 600 uncontrolled natural gas-fired RICE that are rated greater than 500 horsepower located State-wide (outside of the NAA). These RICE are an uncontrolled source of VOC and NOx emissions, which are both ozone precursors. Uncontrolled emissions from these engines are estimated to be 8,610 tpy of NOx, 2,560 tpy of VOC, and 7,330 tpy of carbon monoxide (CO).

The Division is concerned about two growing ozone problems related to emissions within Colorado but outside of the NAA. Background ozone levels transported into the NAA have been shown to be as high as 40-60 parts per billion. This ozone, as well as associated precursor pollutants, originates in regions inside and outside of Colorado, including the oil and gas fields of far eastern, western, southern, and the southwest portions of the state. The Division is also aware of the potential for high ozone concentrations associated with winter-time inversions in areas with high oil and gas production activity. For example, Wyoming has monitored exceedances of the 8-hour ozone NAAQS under such conditions.

The oil and gas industry is the fastest growing source category of precursor emissions. The industry, especially its minor sources, is largely uncontrolled outside of the NAA. Given the recent growth of the industry in Colorado, the predicted growth and the potential for the same meteorological conditions as Wyoming has, it is imperative that Colorado act to proactively reduce emissions from the oil and gas industry.

State-wide controls on oil and gas sources should help to reduce transported ozone and precursors into the NAA. Modeling performed for the development of the Ozone Action plan indicates that State-wide VOC and NO<sub>x</sub> reductions will benefit Front Range ozone levels. The proposed engines controls are supported by this analysis. This rulemaking might otherwise not be the most opportune time to examine State-wide oil and gas controls. However, given the apparent impact that ozone transport is having on the NAA, and in an effort to help other regions avoid ozone non-attainment in the future, the Division believes that it is important to impose state-wide controls now. The Division estimates that emission reductions associated with this proposal would be 5,800 tons per year for NO<sub>x</sub>, 1,280 tons per year for VOCs and 6,960 tons per year for CO.

Under the Division's proposal, all existing engines having a manufacturer's name-plate design rate of greater than 500 horsepower (hp) would install and operate controls, depending on the type of engine and the associated cost. Rich-burn engines would be required to install and operate a non-selective catalyst reduction and an air fuel ratio controller by May 1, 2010. Lean-burn engines would be required to install and operate an oxidation catalyst by May 1, 2010.

The Division proposes the similar cost-based exemptions from these control requirements as those that now apply in the NAA. If the owner/operator of a rich-burn engine could demonstrate to the Division that the required retrofit technology could not be installed at a cost of less than \$5,000 per ton of VOC/NO<sub>x</sub>/CO combined emission reductions, the engine would be exempt. For lean-burn engines, if owner/operators demonstrate that VOC/CO combined emissions reductions are more than \$5,000 per ton of emissions reductions, the engine would be exempt. Any source requesting this exemption would be required to submit the request and supporting documentation no later than August 1, 2009.

#### *Air Pollution Emission Notices, Construction and Operating Permits*

Air Pollution Emission Notices (APEN) are primarily used as a means to track emissions to define the Division's our pollutant inventories. The inventory completeness and accuracy only grows more critical when an area violates an ambient air quality standard. Given the current ozone NAAQS non-attainment designation and the new lower standard, it is important that Colorado maintain as accurate an emissions inventory as possible in order to determine where control measures may be best applied in the future. These control measures create economic burdens for business, and businesses that contribute ozone precursor pollutants should share in that burden to ensure that there is not a disproportionate burden on any one business sector.

Regulation Number 3 currently exempts a number of emission sources and source categories from reporting their emissions by means of an APEN. The Division has examined these exemptions to determine which should be eliminated to improve our emissions inventory and evaluate future emission control needs. The exemptions include petroleum industry flares less than five tpy emissions, specified crude oil truck loading equipment, oil/gas production wastewater, crude oil storage tanks, surface water storage impoundment, and condensate tanks

with production of 730 barrels per year or less (730 bpy is the equivalent of approximately five tpy of VOC emissions). The general APEN exemption from Regulation 3, Part A may always be used if actual annual uncontrolled emissions fall below the applicable de minimis levels: 2 tpy for attainment areas and 1 tpy for NAAs.

If a source is exempt from APEN requirements, the source is also exempt from permitting requirements. The Division also proposes to eliminate construction permit exemptions for certain sources that have been identified as significant enough to warrant control. The exemptions in question include petroleum industry flares less than 5 tons per year (tpy), specified crude oil truck loading equipment, oil/gas production wastewater, except for commercial wastewater processing facilities, and specified crude oil storage tanks. Finally, the Division proposes to eliminate the exemption from operating permit requirements for specified production wastewater impoundments.

Finally, the APEN and permitting exemptions for fuel storage dispensing (Regulation 3, Part A, Section II.D.1.cccc. and Part C, Section II.E.3.cccc.) were revised to expand the applicability of the current exemption from specifically the 1-hour ozone attainment/maintenance area to any ozone NAA to ensure VOC controls are required in ozone NAAs.

#### State-only Mobile Source Inspection and Maintenance for the North Front Range

Emissions from motor vehicles are one of the prime contributors of VOCs, CO and NO<sub>x</sub> in the NAA, and high-emitting vehicles continue to contribute a disproportionate share of precursor pollutants. The Division estimates that on a typical summer day in 2010, motor vehicles will contribute 106 tpd of VOCs and 123 tpd of NO<sub>x</sub> to the NAA. Because motor vehicles are regulated primarily at the federal level, the state's options in reducing ozone precursor emissions from this important sector are somewhat limited. Among these options, the most cost effective is the implementation of a comprehensive vehicle inspection and maintenance (I/M) program. Accordingly, the NFRMPO, RAQC, and the Division propose to extend the coverage of the DMA I/M program, known as the Enhanced Emissions Program, to the North Front Range region. This program would enable the Division to identify the high-emitting vehicles and require the emission related repairs necessary to reduce VOCs, NO<sub>x</sub>, and CO.

Currently, statutory authority limits the potential area of expansion to South Eastern Larimer County and the area around Greeley in Weld County. The proposed revisions would expand the Enhanced Emissions Program in Weld and Larimer Counties to the limit of the authority set forth in statute. The Division estimates that expanding this program will result in 1 tpd reduction of VOCs, 1 tpd reduction of NO<sub>x</sub> and 17 tpd reduction of CO.

#### Adopt more stringent cut-points for inspection/maintenance program in 7county Denver metro area

Lower cut-points in the 7-county Denver metro area will identify more high-emitting vehicles that will result in repairs to reduce emissions. The Commission approved revisions to Regulation No. 11 which implemented these cut-points in May 2008. These revisions are expected to reduce mobile source VOC emissions by 1 tpd, NO<sub>x</sub> emissions by 3 tpd, and CO emissions by 13 tpd. Under Alternative No. 1, these cutpoints are proposed to be part of the Federal SIP; under Alternative 2., they remain as State-only provisions.

Require 7.8 pounds per square inch (psi) RVP (Reid Vapor Pressure) gasoline in the entire nonattainment area

Gasoline with 7.8 RVP is already required in the 1-hour ozone attainment/maintenance area (most of the 7-county Denver metro area) and will be required by May 1, 2010 in portions of Larimer and Weld counties and eastern portions of Arapahoe and Adams counties with EPA regulatory action. EPA has commenced processing a rulemaking action to require summertime 7.8 RVP gasoline throughout the 9-county NAA. This measure is expected to provide an additional SIP VOC emissions reduction credit of 3 tpd.

VOC and NOx motor vehicle emission budgets

The Division proposes to revise the Colorado "Ambient Air Quality Standards" regulation to establish 8-hour ozone VOC and NOx emissions budgets for the NAA. Adoption of the Ambient Air Quality Standards regulation revisions would establish ozone-related mobile source emission budgets for the NAA in State regulation and as part of the Federally enforceable SIP under Alternatives No. 1 and 2. Both alternatives expressly allow the MPOs the flexibility to demonstrate conformity with either the established subarea budgets or the nonattainment area-wide Motor Vehicle Emission Budgets. Under provisions of this SIP, the MPOs must make an initial concurrent conformity determination using the nonattainment area-wide Motor Vehicle Emissions Budgets for VOCs and NOx. However, consistent with EPA regulations and guidance, the MPOs may use the subarea budgets for subsequent conformity determinations.

Other Revisions

Under Alternative No. 1 and 2., these provisions are proposed to be part of the Federal SIP.

The Division's proposal changes the title of Regulation No. 7 to include NOx. An outline of sections is provided to better understand contents of Regulation No. 7. Outdated sections are removed (i.e. Section II.F.1. specific to Gates Rubber Company, which is now out of business). Section XII, specific to condensate tanks in the ozone non-attainment area is reorganized for clarity. One appendix (new Appendix A) is added to provide maps of ozone NAAs and chronologies of attainment designations, of which certain requirements key off. Finally, sections and appendices are renumbered and formatted as necessary.

The Division proposes some revisions to eliminate typographical and grammatical mistakes. We also proposed some formatting changes to improve clarity throughout Regulation No. 7. Specifically, the Division proposes an outline of the rule that should assist the reader in finding pertinent provisions. The Division proposes corrections to definitions and corresponding numbering in Regulation No. 7, Section II.A.4.

The Division proposes to eliminate regulations that apply only to Gates Rubber Plant since the company is no longer operating. We propose to clarify reporting requirement of every six months for operators of external floating roof tanks. Finally, we propose to clarify the general exemption for crude oil. Specifically, certain crude oil storage tanks are exempt from all

provisions of Regulation 7 except Sections XII (VOC emissions controls) and XVII (Statewide controls for oil and gas and natural gas-fired reciprocating internal combustion engines).

## **ISSUES AND DIVISION RESPONSES**

The Division has defined the following issues based on the Requests for Party Status and offers the following responses.

### **Issue: Which ozone reduction strategies should go into the SIP (vs. state only)?**

#### **Division Response:**

The RAQC, the NFRMPO, and the Division have developed and endorsed the Ozone Action Plan that was approved for public hearing by the Commission. The plan contains a combination of “SIP” and “state-only” ozone reduction strategies that were developed through an intensive stakeholder process. The Commission has asked the clear question as to what should or should not be included in the Federal SIP, in accordance with C.R.S. 25-7-105.1. The Division, as staff to the Commission, must ensure that the Commission has appropriate options provided to it so the Commission can act in a timely manner to adopt measures. Therefore, the Division is proposing Alternative Proposal No. 2 that addresses C.R.S. 25-7-105.1, allowing the Commission to adopt measures that maximize what is reserved as State-only and minimizes what is submitted to EPA for inclusion in the Federal SIP.

### **Issue: Are the ozone reduction strategies appropriate given the modeling results?**

#### **Division Response:**

The modeling results demonstrate that the control strategies selected for the ozone action plan are appropriate - the plan’s strategies focus primarily on mobile and oil and gas sources. First, the source apportionment modeling demonstrates that mobile sources are the primary contributor to ozone formation throughout the non-attainment area. In the North Front Range region, the apportionment modeling demonstrates that oil and gas emissions significantly contribute to ozone concentrations. Second, the sensitivity modeling demonstrates that mobile source and oil and gas emission reduction scenarios achieve positive ozone benefits throughout the NAA. Third, and most important, the 2010 additional control case modeling demonstrates that the proposed control strategies achieve additional ozone benefits beyond the 2010 base case scenario (as much as 200% more ozone benefit for the Rocky Flats North monitoring site and as much as 36% more ozone benefit for the Fort Collins West site).

**Issue: Is the source apportionment appropriate given the modeling results?**

**Division Response:**

The source apportionment modeling demonstrates that mobile and oil and gas sources are the primary contributors to ozone formation throughout the non-attainment area. These two categories also tend to be the most significant emission source categories in the area.

**Issue: Should the Ozone Action Plan make mention of the 2009+ efforts for SIP amendment, and should the AQCC be asked to approve the plan that includes these future efforts?**

**Division Response:**

The intent of discussing the 2009 and beyond efforts in the Ozone Action Plan is to reflect the Regional Air Quality Council's desire to continue the ozone planning process into the year 2009 and beyond and to highlight specific areas for discussion.

**Issue: What is the appropriate "rule effectiveness" for oil and gas control measures?**

**Division Response:**

Based on the rigorous use of EPA guidance regarding rule effectiveness (EPA-454/R-05-001) and Division experience with affected sources, the Division believes the RE for both pneumatic controllers and condensate tanks is 83 percent.

**Issue: What are appropriate recordkeeping and reporting requirements for condensate tanks?**

**Division Response:**

In addition to the current practices, the Division has included some additional refinements to the current recordkeeping and reporting of tanks to better assist the Division in assuring compliance. Such refinements should also assist industry in a timely verification of their compliance and provide them an early indication if increased overall system-wide controls are warranted.

**Issue: Should condensate controls be applied to existing sources with emissions as low as two tons per year?**

**Division Response:**

Regulation Number 3, Part B, sets the permitting thresholds and thus minor source Reasonably Available Control Technology (RACT) requirements for all new and modified sources at two (2) tpy in ozone NAAs. In the Front Range NAA, many existing 2wo tpy tanks are being used to demonstrate compliance with the Regulation No. 7 RACT requirements via the system-wide control strategy. Due to the number of tanks in the NAA and their contribution to ozone formation, it seems appropriate to subject existing 2 tpy tanks to these control requirements through the system-wide approach.

**Issue: Should electronic surveillance for condensate tank controls be required?**

**Division Response:**

Under the various proposals, increased stringency in condensate tank control requirements and monitoring of downtime on a continuous basis becomes ever-more necessary. As such, a program of electronic surveillance is warranted on the larger tanks in the NAA. Given the cost associated with electronic surveillance and the diminishing benefits derived from tanks below a certain size, the Division proposes to require such surveillance for large emitting tanks with VOC emissions of 100 tpy or greater.

**Issue: Retention of the current “system-wide” control approach versus the Division’s proposed “threshold” control approach.**

**Division Response:**

The Division believes, after further analysis, that a refinement to the current system-wide approach will be more effective and practical than the originally proposed threshold regime. For example, some of the key aspects that drove the Division’s interest in a threshold approach are to be addressed through refinement of the system-wide regime (e.g., timeliness of industry reporting of condensate tank emissions, an increased Division focus on smaller operators, standardized electronic reports, etc.). Furthermore, the retention of the current approach continues to make available to industry the desired flexibility to over-control their system-wide emissions while better assuring overall compliance.

**Issue: Should consideration of the proposed state-only requirements for engines be delayed until 2009 when additional ozone and Regional Haze control options are being discussed?**

**Division Response:**

Sensitivity modeling demonstrates that State-wide emission control strategies have a positive impact in the NAA. The requirements for engines achieve VOC, NO<sub>x</sub> and CO emission reductions, all ozone precursors from one of the largest emitting source categories. The engines strategy is also part of a larger Department initiative to control and reduce emissions from the rapidly growing oil and gas industry throughout the State. Thus, the Division believes it appropriate to advance this proposal in 2008.

**Issue: Should emission factors be incorporated into SIP or should only the methodology used to establish and approve default and alternative basin- and source-specific emission factors be incorporated into the SIP?**

**Division Response:**

For the current DMA/NFR NAA, the Division proposes to keep what is in the current regulation. However, since emission factors vary between operations, basins and over time, the

Division believes that it in the future, it may be more appropriate to specify the methodology used in establishing these factors than to specify the actual emission factor in the SIP.

**Issue: Should NO<sub>x</sub> from flares be accounted for in condensate tank control strategy since NO<sub>x</sub> is also a precursor to ozone, and if so, in what capacity?**

**Division Response:**

The Division evaluated NO<sub>x</sub> emissions from flaring condensate tank flash gas emissions in response to the concern that installing more flares will increase NO<sub>x</sub> emissions, resulting in an overall ozone disbenefit. In the analysis, the Division has determined that the substantial VOC reduction from flaring flash gas far outweighs the minimal increase in NO<sub>x</sub> emissions. The Division agrees that NO<sub>x</sub> emissions from flares should be considered and the emission inventory include NO<sub>x</sub> emissions from flaring flash gas.

**Issue: How to best address the timing gap in RICE control requirements between new/modified RICE State-wide and existing RICE State-wide (and NSPS)?**

**Division Response:**

The Division has revised Regulation No. 7, Section XVII.E.3 such that on a State-wide basis, “existing” RICE are those RICE which were constructed or modified before February 1, 2009. This revision is based on the anticipated effective date of the proposed rule (February 1, 2009). Further, the date that distinguishes existing sources in this Regulation No. 7, Section XVII.E.3 intentionally differs from the date in Regulation No. 7, Section XVI.C.4. in order to address the timing gap between new and modified sources in this proposal and the NESHAP, Subpart ZZZZ.

**Issue: Was the intention of the existing State-only RICE emission standards to account for formaldehyde or not (& therefore should there be proposed RICE emission standards)?**

**Division Response:**

Under 40 CFR 60.4244(f), EPA excluded formaldehyde from calculation of VOCs based on the measurement difficulties stemming from traditional performance testing methods, indicating that “it is appropriate to specify that formaldehyde is not included in the final VOC emission standard.” The Division is currently evaluating whether to exclude formaldehyde from the calculation of VOCs for compliance demonstration.

**Issue: Should well refracturing and stimulation trigger a “modification” for condensate tanks and therefore trigger the associated control requirements for these tanks?**

**Division Response:**

Operators “refrac”, stimulate and/or recomplete wells to generate greater production from a well that has declined. The Division believes this activity can lead to significant emissions during a short period immediately following. The Division has proposed to define these

activities as “modifications” to ensure that the period when emissions may be the greatest – during the first 90 days post modification – receive appropriate control.

**Issue: Should recordkeeping and reporting requirements be developed for dehydrators separately from permits?**

**Division Response:**

No, dehydrator recordkeeping and reporting should be left to the individual permits. There is no reason to include this language in the regulations, as each individual dehydrator subject to Regulation No. 7 will be permitted. This would add unnecessary confusion to the regulation.

**Issue: Should additional measures that have not been considered by the Division or discussed in the stakeholder process be adopted in this rulemaking (i.e. largest NOx sources, state-wide tank and pneumatic requirements, etc)?**

**Division Response:**

The proposed strategies included in the ozone action plan have been carefully and thoroughly considered through an extensive stakeholder process. These measures achieve the necessary reductions to show attainment of the 0.08 ppm ozone standard and begin to make progress towards attainment of the 0.075 ppm ozone standard. The Division looks forward to working with stakeholders to evaluate additional measures in 2009 and beyond.

**Issue: Is the timeline for condensate tank controls adequate?**

**Division Response:**

Based on the number of subject sources, the availability of control equipment, the timeframe needed to purchase and install controls, the Division believes that the proposed timeline is reasonable.

**Issue: Is the I/M timing in the NFR appropriate?**

**Division Response:**

During the Status Conference, Environmental Systems Products, Inc. ("ESP") objected to the proposed January 1, 2012, start-up date for an automobile inspection and maintenance program in the North Front Range. ESP is currently the contractor for the Inspection and Maintenance program in the Denver Metro Area, and has indicated that it could have a program up and running the North Front Range by January 1, 2010. While the Division does not necessarily object to an earlier start-up date, sufficient time must be allowed in order to accomplish the myriad of tasks that must be completed to ensure a smooth start-up. These include: selecting a contractor and formalizing a contract to operate the program; building the necessary testing infrastructure; establishing the automobile registration infrastructure with the Department of Revenue and the County Clerks for Larimer and Weld Counties; auditing testing equipment and procedures to ensure accurate testing; and out reach and training for the repair community so that vehicles identified as dirty will be properly repaired in a cost effective

manner. Given all these significant tasks, a January 1, 2010 start-up date seems unrealistic and could result in a chaotic initial implementation, which could negatively impact the public perception of the program for years to come.

**Issue: Are the control efficiency assumptions for lean-burn engines appropriate?**

**Division Response:**

The Division received comments regarding the proposed revisions to the state-only requirements for Reciprocal Internal Combustion Engines (RICE) that were adopted in the most recent version of Regulation No. 7 (effective March 2007), including that 1) the Division underestimates the cost to control existing RICE, and 2) the control efficiency accorded to VOC reductions is unrealistic.

Regarding costs, the Division has revised the estimated VOC reductions and costs associated with the statewide retrofit of NG fired RICE over 500 hp to better reflect the expected benefits of controls. The revised control cost projections indicate that retrofit controls remain under the \$5,000 per ton threshold that is considered cost effective. Consequently, the Division continues to propose this control measure as a consideration in the Ozone Action Plan because the estimated 7,000 tons per year VOC/NO<sub>x</sub> reduction is significant and the control measure is cost effective.

Regarding control efficiencies, in the 2008 EIA, the Division accorded 95% control efficiency to NO<sub>x</sub> and CO, and 50% control efficiency of VOC for calculation of economic impacts and total emission reductions. The pertinent numbers affect two-and-four-stroke lean burn RICE. In the promulgation of Regulation No. 7, the Division used the 2003 analysis as best available data as a basis for control efficiency applied to oxidation catalysts. VOC emissions tend to be problematic to evaluate due to testing methods that identify total hydrocarbons, resulting in a range of control efficiencies for VOC. Consequently, the Division has used a conservative control estimate conforming with AP-42 to properly account for projected impacts of total emission reductions from natural fired RICE.

**Issue: Are the maintenance requirements for RICE appropriate?**

**Division Response:**

Yes, the RICE maintenance requirements are appropriate. For example, an Operating and Maintenance Plan (O&M Plan) is required for all engines that are synthetic minor for Title V status in the State of Colorado. The O&M Plan is a significant tool that the Division uses to ensure that the controlled engines are operating properly and are in compliance with the individual permit limits and are staying below major source status. The significant components of the engine O&M Plan are steps to ensure that the control device(s) associated with the engine is operating correctly.

**Issue: Are the revisions to the Regulation No. 3 exemptions appropriate?**

**Division Response:**

Yes, the revisions are appropriate. The Division decided on the proposed exemptions based on staff experience with the sources in question and, in some cases, on re-evaluating emissions estimates for specific source categories. In other cases, the Division proposed changes to build an inventory of emissions because the Division believes that emissions from such currently exempt source categories are greater than previously thought.

**Issue: Is the change in non-attainment definition, and possibly the re-vamping to address generic future NAA, appropriate?**

**Division Response:**

Yes, this is appropriate. The proposed language in question would mean that Reasonably Available Control Technology (RACT) requirements apply to existing sources in any ozone NAA. This proposal is more equitable because sources throughout 8-hour NAAs should be subject to the same base RACT requirements. Further, the Division seeks to proactively apply general RACT requirements in all ozone NAAs to avoid the delay associated with the future rulemaking and SIP revisions that would be needed to address future ozone NAAs. Finally, the Division's proposal would allow existing sources a fair amount of time to comply. This approach secures early emissions reductions by not waiting for a SIP revision before applying base RACT requirements. These reductions could be considered in base case emissions modeling and help the area move towards attainment sooner. This approach provides the incidental benefit of addressing both the new 8-hour Ozone National Ambient Air Quality Standard and the Governor's and the RAQC Board's directives to go beyond meeting the current ozone standard of 85 ppb.

While the Division's proposal applies Regulation No. 7 to sources immediately upon ozone non-attainment designation, it gives them time to comply with any associated RACT requirements. Existing 100 tpy VOC sources in future ozone NAAs have one year from ozone non-attainment designation to submit RACT analysis and associated permit applications and three years from ozone non-attainment designation to implement RACT. Similarly, all existing sources have three years from ozone non-attainment designation to implement the general RACT emissions limitations of Regulation No. 7, Sections III – XVIII.

**PRESENTATION TIME ESTIMATE**

The Division estimates that it will need six hours.

## FACTUAL AND LEGAL ISSUES

1. Which ozone reduction strategies should go into the SIP?
2. Has the Division proposed appropriate control measures to address the 8-hour ozone non-attainment designation?
3. Do the modeling results support the proposed ozone reduction strategies?
4. What is the appropriate “rule effectiveness” for oil and gas control measures?
5. What are appropriate recordkeeping and reporting requirements for condensate tanks?
6. Should condensate controls be applied to existing sources with emissions as low as two tons per year?
7. Should electronic surveillance for condensate tank controls be required?
8. Should the Commission retain the “system-wide” control program?
9. Should proposed engine controls be delayed until 2009 when additional ozone and Regional Haze control options are being discussed?
10. How should emission factors be defined?
11. How to best address the timing gap in RICE control requirements between new/modified RICE state-wide and existing RICE state-wide (and NSPS)?
12. What schedule should be implemented for controls applying to existing, new and modified engines? Are the timelines for condensate tank controls appropriate?
13. Should well refracturing, stimulation and recompletions trigger control requirements for these tanks? Should recordkeeping and reporting requirements be developed for dehydrators separately from permits? Is the time for implementing the vehicle inspection and maintenance program in the North Front Range appropriate?
14. Are the control efficiency assumptions for lean-burn engines appropriate?
15. Are the maintenance requirements for Reciprocal Internal Combustion Engines appropriate?
16. Are the revisions to the Reg 3 exemptions appropriate?
17. Is the change in non-attainment definition appropriate?

## WITNESSES

1. **Mike Silverstein**, Deputy Director, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Silverstein will testify regarding the Division’s proposed regulatory changes, the need and basis for selecting the strategies in question and any issues raised in connection with these proposed strategies. Mr. Silverstein may also testify regarding any alternate proposals submitted by the other parties.

2. **Kirsten King**, Manager for Stationary Sources Program, Colorado Department of Public Health and Environment, Air Pollution Control Division. Ms. King will testify regarding the Division's proposed regulatory changes, with emphasis on permitting and control technology issues and any issues raised in connection with these proposed changes. Ms. King may also testify regarding any alternate proposals.
3. **Chuck Machovec**, Supervisor, Modeling, Meteorology and Emission Inventory Unit, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Machovec will testify regarding the Division's use of modeling results to determine the best approach to addressing non-attainment and will otherwise testify in response to issues raised regarding the modeling analysis. Mr. Machovec may also testify regarding any alternate proposals.
4. **Garry Kaufman**, Manager for Mobile Sources Program, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Kaufman will testify regarding the Division's proposed regulatory changes, with emphasis on the proposed expansion of the Denver Metro Area program elements to the North Front Range, as well as any issues raised in connection with these program changes. Mr. Kaufman may also testify regarding any alternative proposals submitted by the other parties.
5. **Mark McMillan**, Supervisor for Oil and Gas Unit, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. McMillan may testify concerning the Division's proposed revisions to Regulation No. 7 with particular regard to administration and enforcement of Regulation No. 7 in the oil and gas industry. Mr. McMillan may also testify regarding any alternate proposals.
6. **Theresa Amoroso**, Regulatory Development, Colorado Department of Public Health and Environment, Air Pollution Control Division. Ms. Amoroso may testify regarding the Division's proposed regulatory changes and any issues raised in connection with these proposed changes. Ms. Amoroso may also testify regarding any alternate proposals.
7. **Dena Wojtach**, Regulatory, Compliance & Support Unit Supervisor, Colorado Department of Public Health and Environment, Air Pollution Control Division. Ms. Wojtach may testify regarding the Division's proposed regulatory changes and any issues raised in connection with these proposed changes. Ms. Wojtach may also testify regarding any alternate proposals.
8. **Tom Roan**, Attorney General's Office. Mr. Roan may testify regarding the Division's proposed regulatory changes and any issues raised in connection with these proposed changes. Mr. Roan may also testify regarding any alternate proposals.
9. **Roy Doyle**, Supervisor for Inventory and Technical Support, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Doyle may testify regarding the Division's proposed regulatory changes, with emphasis on precursor emission inventories, as well as any issues raised in connection with these proposed changes. Mr. Doyle may also testify regarding any alternate proposals.

10. **Curt Taipale**, Planning and Policy Program, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Taipale may testify regarding the Division's proposed regulatory changes and any issues raised in connection with these proposed changes. Mr. Taipale may also testify regarding any alternate proposals.
11. **Chris Laplante**, Permitting Supervisor, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Laplante may testify regarding the Division's proposed regulatory changes and any issues raised in connection with these proposed changes. Mr. Laplante may also testify regarding any alternate proposals.
12. **Kim Livo**, Mobile Sources Program, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Livo may testify regarding the Division's proposed regulatory changes, with emphasis on the proposed expansion of the Denver Metro Area program elements to the North Front Range, as well as any issues raised in connection with these program changes. Mr. Livo may also testify regarding any alternative proposals submitted by the other parties.
13. **Scott Patefield**, Enforcement Supervisor, Oil and Gas Unit, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Patefield may testify regarding the Division's proposed regulatory changes regarding condensate tanks and any issues raised in connection with these proposed changes. Mr. Patefield may also testify regarding any alternate proposals.
14. **Kevin Briggs**, Modeler, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Briggs may testify regarding the Division's proposal with emphasis on the photochemical modeling. Mr. Briggs may also testify regarding any alternate proposals.
15. **Patrick Reddy**, Meteorologist, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Reddy may testify regarding the Division's proposal with emphasis on meteorological influences on ozone formation. Mr. Reddy may also testify regarding any alternate proposals.
16. **Rose Waldman**, Planner, Oil and Gas Unit, Colorado Department of Public Health and Environment, Air Pollution Control Division. Ms. Waldman may testify regarding the Division's proposed regulatory changes regarding pneumatic controllers and any issues raised in connection with these proposed changes. Ms. Waldman may also testify regarding any alternate proposals.
17. **Jennifer Mattox**, Field Inspector, Oil and Gas Unit, Colorado Department of Public Health and Environment, Air Pollution Control Division. Ms. Mattox may testify regarding the Division's proposed regulatory changes regarding engines and any issues raised in connection with these proposed changes. Ms. Mattox may also testify regarding any alternate proposals.
18. Other employees of the Colorado Department of Public Health and Environment, Air Pollution Control Division may, if necessary due to scheduling or availability, replace the witnesses listed above. If the above witnesses are unavailable to testify, the

Division will notify the Commission and the other parties of any replacement witness as soon as possible.

EXHIBITS


1. Alternative Proposal #1
2. Alternative Proposal #2
3. Final Economic Impact Analyses.
4. The Division reserves the right to offer exhibits as necessary on rebuttal.

The Technical Support Document for the initial proposal and the alternative proposals can be found at: <http://www.colorado.gov/airquality/documents/deno308/>

**DATED** this 13th day of November 2008.

JOHN W. SUTHERS

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CERTIFICATE OF SERVICE

I hereby certify on this 13th day of November, 2008, a true and correct copy of the foregoing Prehearing Statement, Alternative Proposal No. 1, Alternative Proposal No. 2, and Final Economic Impact Analyses were served on the following via electronic mail:

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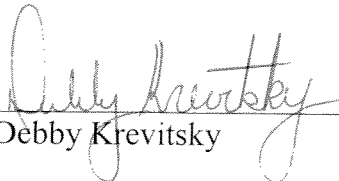
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