



Title V Operating Permit Processing Information

Colorado Ozone Nonattainment Area Redesignation to "Serious"

- On January 27, 2020 the Environmental Protection Agency (EPA) reclassified the Denver Metro/North Front Range area of Colorado from a "Moderate" to a "Serious" nonattainment area (NAA) for ozone. [84 FR 70897]
- Ozone precursor emissions include Nitrogen Oxides (NO_x) and Volatile Organic Compounds (VOC).
- Reclassification to a "Serious" NAA resulted in a lower Major Stationary Source threshold for NO_x and VOC for any source located in the Denver Metro/North Front Range (DM/NFR) area.
- The Major Source Threshold for operating permits remains at 100 tpy for NO_x and VOC as per Regulation No. 3, Part A, I.B.25.b, and does not change as a result of the reclassification to serious. However, the definition of Major Sources (Part A, I.B.25) include facilities that "meet any of the definition of major stationary source set forth in Section II.A.25 of Part D of this Regulation Number 3" (Part A, I.B.25.c). Therefore, sources that meet the definition of Major Stationary Source are also considered to be Major Sources subject to Operating Permit requirements.

Pollutants ^c	Major Stationary Source Thresholds in the Denver Metro/North Front Range Ozone Nonattainment Area ^e		Major Source Thresholds
	"Moderate" Designation (pre 1/27/2020)	"Serious" Designation (post 1/27/2020)	
NO _x	100 tpy ^b	50 tpy ^b	100 tpy ^{d,f}
VOC	100 tpy ^b	50 tpy ^b	100 tpy ^{d,f}
SO ₂	250 tpy ^a	250 tpy ^a	100 tpy ^{d,f}
CO	250 tpy ^a	250 tpy ^a	100 tpy ^{d,f}
PM/TSP	250 tpy ^a	250 tpy ^a	N/A ^g
PM ₁₀	250 tpy ^a	250 tpy ^a	100 tpy ^{d,f}
PM _{2.5}	250 tpy ^a	250 tpy ^a	100 tpy ^{d,f}
Individual HAP	N/A	N/A	10 tpy
Combined HAPs	N/A	N/A	25 tpy

Notes: ^a Major Stationary Source is defined in Colorado Regulation No 3, Part D, II.A.25, and the thresholds listed above are for these pollutants in attainment or unclassifiable areas. Note that a 100 tpy threshold applies to specific listed sources in II.A.25.a.(i).

^b Specific NO_x and VOC thresholds for nonattainment areas are listed in Colorado Regulation No. 3, Part D, II.A.25.b.(i) - (iv).

^c The pollutant thresholds in the definition of Major Stationary Source apply to "any regulated NSR pollutant," and the pollutant thresholds in the definition of Major Source apply to "any pollutant subject to regulation. Not all of the pollutants in these categories are explicitly listed in the table above, see Colorado Regulation No. 3, Part A, I.B.44 and Part D, II.A.40 for details.

^d As noted previously, when the major stationary source threshold is lower than this value (as is the case in a serious ozone nonattainment area), the source is a major source subject to operating permit requirements as per Regulation 3, Part A, I.B.25.c, regardless of the 100 tpy threshold.

^e Fugitive emissions shall not be considered in determining whether a source is a major stationary source for purposes of Regulation 3, Part D unless the source belongs to one of the categories listed in Regulation No. 3, Part D Section II.A.25.a.(i) or any other stationary source category which, as of August 7, 1980, is regulated under Section 111 or 112 of the Federal Act.

^f Fugitive emissions (see definition in Common Provisions Section I.G.) shall not be considered in determining whether a source is a major source for purposes of Title V unless the source belongs to one of the categories listed in Regulation No. 3, Part A, Section I.B.25.b.

^g Note that if the source is a major source solely due to particulate matter/total suspended particulate matter (PM/TSP), then the source is not required to obtain an Operating Permit per Colorado Regulation No. 3 Part C Section II.A.1.b

- Any source located in the DM/NFR area of Colorado that directly emits, or has the potential to emit 50

tons per year or more of NO_x and/or VOC is now subject to the provisions of Colorado Regulation No. 3, Part C and is required to obtain an Operating Permit (permit).

Operating Permit Initial Application Due Date

- Title V applications are due within twelve months of the date the source becomes subject to the operating permit requirements (Regulation No. 3, Part C, Section III.B.2).
- Within twelve months of the effective date (January 27, 2020) for the “serious” NAA redesignation any source with a potential to emit (see definition in Colorado Regulation No. 3, Part A, Section I.B.37) of NO_x or VOC equal to or greater than the Major Source Threshold (Regulation No. 3, Part A, Section I.B.25 and Part D, Section II.A.25 and the table above) for the DM/NFR is required to submit an initial application for an operating permit.
- See Colorado PS Memo 09-01 for additional guidelines on Title V application due dates here: <https://www.colorado.gov/pacific/cdphe/permitting-guidance-memos>
- A timely and complete application for an operating permit will be granted the Application Shield of Colorado Regulation No. 3, Part C, Section II.B

Division Operating Permit Application Review Period

- Within 60 calendar days after the receipt of an application or any supplemental information requested by the Division, the Division will give notice to the applicant if and in what respect the application is incomplete. (Regulation No. 3, Part C, Section IV.B.1)
- The Division will have eighteen months after receipt of a complete application to approve or disapprove the operating permit application. (Regulation No. 3, Part C, Section IV.C)

Draft Operating Permit Source Review Period

- After the Division completes the draft operating permit, the source will have the opportunity to review the draft permit prior to the public comment period.
- Standard operating permit review times are 14 to 30 calendar days for Initial, Renewal, and Significant Modification Applications

Public Notice

- All initial operating permit issuances, renewal operating permit issuances, operating permit re-openings, and significant modifications are subject to a 30 calendar day public notice and comment period. (Regulation No. 3, Part C, Section VI.A)
- Minor permit modifications and administrative permit amendments are not subject to public notice and comment (Regulation No. 3, Part C, Section VI.A)
- If required to go through public notice, the draft operating permit, draft technical review document (TRD), and public comment notice will be posted on the Division’s Air Permit Public Notice webpage here: <https://www.colorado.gov/cdphe/air-permit-public-notices>
- The Division’s Air Permit Public Notice webpage includes instructions on how to subscribe to receive permit public notice updates, how to submit public comments, and tips on how to make effective public comments.
- After the 30 calendar day public notice and comment period review ends, the Division will review all public comments that were submitted to the Division, respond to those comments, and make appropriate

changes to the operating permit, if applicable.

Public Hearing

- All initial permit issuances, renewal permit issuances, re-openings, and significant modifications are subject to an opportunity for a public comment hearing in front of the Air Quality Control Commission (AQCC) if requested. (Regulation No. 3, Part C, Section VI.A)
- Requests for a public comment hearing are to be submitted to the Division within the 30 day public comment period. Within five days after the end of the public comment period, the Division shall transmit to the AQCC the request for the public comment hearing, along with the complete permit application, the draft permit, the preliminary analysis and the any comments.
- If requested during the 30 calendar day public notice period, a public comment hearing will be held in front of the AQCC within sixty days of the receipt of the request for a hearing, unless the applicant and the Division agree to a later date.
- After the conclusion of the public comment hearing, the Division will review all public comments that were submitted to the Division and/or AQCC, respond to those comments, and make appropriate changes to the permit, if applicable.

Environmental Protection Agency Operating Permit Review

- The Division will provide the proposed operating permit, technical review document (TRD), operating permit application, a summary of any public comments received, and the Division's response to public comments to the EPA for a 45 calendar day review period. (Regulation No. 3, Part C, Section V.B.5)
- The Division will have 90 calendar days to make any necessary revisions to the permit to address any comments or objection by the EPA before the permit can be issued. (Regulation No. 3, Part C, Section V.B.7)

Operating Permit Issuance

- All initial and renewal operating permits will typically be issued on the first day of the month following the conclusion of the EPA's 45-day review period.
- Operating Permit Terms are 5 years. (Regulation No. 3, Part C, Section V.C.2)
- Operating permit revisions (administrative, minor, significant modification) will not reset or revise the operating permit issuance and expiration date.
- All currently issued operating permits and TRDs in the State of Colorado can be found in one of two locations on the Division's webpage
 1. Title V Operating Permits Company Index: <https://www.colorado.gov/pacific/cdphe/operating-permits-company-index>
 2. Colorado Environmental Records - WebDrawer: <https://environmentalrecords.colorado.gov/HPRMWebDrawer/Search>
The Division suggests searching WebDrawer using "record number" with the facility's AIRS ID (XXX-XXXX).
- The Division is required by state and federal law to issue the operating permit if the Division determines the applicant can meet all applicable air quality regulations (Colorado Revised Statutes 25-7-114.5(7)(a)).

Public Petition Period

- Any person may petition the EPA to object the operating permit within 60 calendar days of the expiration



of EPA's 45 calendar day review period. (Regulation No. 3, Part C, Section VI.H)

- The petition must be based only on objections to the permit that were raised during the public comment period unless the petitioner demonstrates that it was impracticable to raise such objections within that period or unless the grounds for objection arose after such period.

Operating Permit Renewal Application

- Operating Permits have a five year term and expire five years after initial and/or renewal permit issuance. A renewal application must be submitted to the Division at least 12 months but no earlier than 18 months prior to the expiration of the operating permit (Regulation No. 3, Part C, Section III.B.6). If a timely and complete renewal application is submitted, the operating permit does not expire until the renewal operating permit is issued.

Operating Permit Modifications

- Once the initial operating permit has been issued, the applicant can submit an application for a permit modification.
- There are three types of operating permit modifications:
 - Administrative Amendment
 - Minor Modification
 - Significant Modification
- See the Air Pollution Control Division (APCD) Title V Permit Revision Flowchart for assistance in determining which modification is appropriate for the requested revision.

Example New Operating Permit Processing Timeline

The following timeline demonstrates the minimum processing time required for an initial operating permit. The dates are based on a source becoming subject to the operating permit program of Colorado Regulation No. 3, Part C upon the redesignation of Colorado's DM/NFR ozone NAA from "moderate" to "serious" on January 27, 2020 and an application received date of January 1, 2021.

