

Colorado's Air Pollution Control Division
Responses to Comments from Stakeholders
Condensate tanks, APEN exemptions, RACT fix up
June 16, 2008

General Comments:

1. The Division is overlooking RAQC Board direction of aiming toward 75 ppb.

Response: The Division is mindful of both the Governor's and the RAQC Board's directives to go beyond meeting the current ozone standard of 85 ppb, and is actively developing a menu of options from which the RAQC and the AQCC may choose. The Division is currently focusing on a defined set of strategies thought to yield significant, quantifiable reductions that are cost-effective, technologically feasible, and/or implementable.

2. Regulations are being developed before the modeling has been completed to indicate the amount and type of reductions needed.

Response: The modeling will help the RAQC and AQCC determine which of the strategies, and corresponding language, are necessary to come into attainment with the standard and address the Governor's directive. However, the Division wants to ensure that stakeholders have time to review and comment on the regulatory language so stakeholder meetings are being held prior to modeling results. Due to timing constraints these options are being developed prior to the completion of the modeling and based on screening of substantive emissions sources through the inventory data analysis.

The stakeholders will also have an opportunity to comment during the formal regulatory process. The Division prefers to address the technical issues now, in order to focus on the policy issues during the formal rulemaking process.

3. Strategies should be based on good data and good science.

Response: The Division agrees. The Division is also tasked with developing a menu of options from which the RAQC and the AQCC may choose. Due to timing constraints these options are being developed prior to the completion of the modeling and based on screening of substantive emissions sources through the inventory data analysis. As a result, the Division has requested input from stakeholders in order to make the best decisions possible at this time.

4. Ozone SIP development should only be in the NAA, not statewide.

Response: The Division is mindful of both the Governor's and the RAQC Board's directives to go beyond meeting the current ozone standard of 85 ppb, and is actively developing a menu of options from which the RAQC and the AQCC may choose. If indicated by modeling and other technical information, that menu of options may include strategies for statewide emissions reductions. The RAQC Board and AQCC will determine which options will be incorporated into the SIP.

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- 5. Strategies and rule language are only being developed for oil and gas sources; last four years' oil and gas operations' control efforts have not yielded significant ozone reductions; focus on other industries rather than oil and gas.**

Response: The Division is mindful of both the Governor's and the RAQC Board's directives to go beyond meeting the current ozone standard of 85 ppb, and is actively developing a menu of options from which the RAQC and the AQCC may choose. The Division is currently focusing on a defined set of strategies thought to yield significant, quantifiable reductions that are cost-effective, technologically feasible, and/or implementable. Based on the Division's emission inventory, oil and gas operations' emissions are substantial, and are thus being considered in developing the ozone reduction strategies along with other source categories. Notably other ozone reduction strategies are also being developed specific to largest VOC sources in the NAA, as well as strategies specific to mobile sources and fuel re-formulation. Emissions of NOx from automobiles will be reduced over time, and if the modeling indicates NOx emissions from other sources will be considered for this in future plans.

- 6. Draft regulations are duplicative of the COGCC proposed regulations.**

Response: The proposed regulations are not duplicative. The Division's draft regulations apply to the ozone non-attainment area. The COGCC regulations do not apply in the ozone non-attainment area, but rather to the Piceance Basin on the western slope, and they only apply to sources within ½ mile of human habitations in that area.

- 7. The ozone SIP should consider taking credit for the COGCC proposed regulations.**

Response: Emissions reductions from the COGCC proposed regulations are unquantifiable at this time, and will remain unquantifiable, if adopted, until such time as the number of sources within ½ mile of human habitations in the Piceance Basin and their associated emissions reductions are fully understood.

- 8. Require BACT standards instead of RACT standards.**

Response: Specific to condensate tanks, BACT and RACT are the same thing – a combustion device or vapor recovery unit. For pneumatics, the conversion to low- or no-bleed devices is similarly both RACT and BACT. The Division is currently assessing whether this is true of the other ozone control strategies being developed.

Condensate Tank Comments:

- 1. Correct the typographical, grammatical, and formatting errors throughout the draft rule.**

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Response: The Division has made revisions as they have been identified.

2. Correct the Condensate definition to Condensate Tank.

Response: This has been corrected.

3. The definition of modification should not be limited to a 5% increase in emissions from the previous year, but rather on any increase in emissions.

Response: A revision has been made; the Division believes it is appropriate to remove the 5% threshold and replace it with any increase in VOC emissions.

4. Revise the 98% control efficiency requirements to 95% to be consistent with COGCC.

Response: The Division is currently evaluating the ability of control equipment in meeting 98% vs. 95% capture and control efficiencies, considering downtime and other factors. The Division is sensitive to the impact of potential conflict between different agencies' regulations by setting different requirements for the same operations, and is weighing this and other considerations in its efforts in developing ozone reduction strategies in order to meet the ozone NAAQS.

Additionally, the Division has received support from several stakeholders in keeping the 98% control efficiency requirement.

5. Control equipment downtime is essentially not allowed by setting the 98% control efficiency.

Response: The Division is currently evaluating the ability of control equipment in meeting 98% vs. 95% capture and control efficiencies, considering downtime and other factors. Under the threshold approach, the agency is considering a control device downtime allowance to provide relief under these circumstances. Alternatively, the Division is considering the use of the upset provisions of the Common Provisions in addressing this issue.

6. Continue to use the system-wide and not the emissions threshold control strategy in regulating condensate tanks; the threshold approach is inflexible for industry, could add enforcement burden to the Division, and does not ease confusion in the Division knowing exactly where each control device is located.

Response: To address the non-attainment status, the Division believes it necessary to control all tanks greater than 2 tons/year VOCs, making the threshold and the system-wide control strategies equivalent. Further, The Division believes that a threshold control strategy is more practically enforceable, relieves a significant level of record maintenance burden for the

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operator and for the Division to review to determine compliance, and is thus more desirable. The threshold control strategy provides more certainty – for smaller operators to comply, and for Division to monitor and track compliance. This strategy also provides equity with other source categories subject to the two ton/year VOC APEN threshold. In addition, the Division has received positive feedback regarding the use of this approach, from states such as Wyoming and industry, and sees value in the simplicity.

The Division intends to respond to industry's request for a discussion of the pros and cons of the threshold vs. system-wide approach in the future – and is proposing to have a fifth stakeholder meeting the week of July 7, 2008.

7. The requirement for new and modified sources to control emissions during first 90 days after drilling, refracing, or stimulating a well should apply to existing sources.

Response: Based on the definitions, an existing source becomes a modified source upon drilling, refracing or stimulating a well, and is subject to the 90-day requirement. Should the definition of modification change, the applicability of the 90-day requirement will be re-evaluated.

8. Provide the Division's technical justification for requiring controls during the first 90 days after refracing or well stimulation.

Response: Oil well production is commonly known within the oil and gas industry to be highest at the early stages of production following a new drill or recompletion and follows a decline curve from that date. Therefore, since emissions are proportional to production, the concept of controlling emissions during the first 90 days will ensure the high level short-term emissions are controlled.

9. Explain how new and modified sources demonstrate compliance with the 98% control efficiency based on a 12-month rolling total, during the first 90-days of operation.

Response: The Division will revise the rule language to allow sources to project annual emissions based on the first 90 days of operation, and remove the 12-month rolling total requirement.

10. Require tracking of date, time and duration for all control equipment shutdown events, not just after the first 100 hours.

Response: The Division has made revisions to the draft rule for clarification. This and other information is necessary if making use of the upset provisions affirmative defense.

11. Requiring flares on every tank battery will increase CO₂e emissions which conflicts with the Governor's Climate Action Plan to reduce greenhouse gases.

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Response: The Division is currently reviewing the data provided, and has requested additional input from other stakeholders.

The Division is sensitive to the CO₂e impact of requiring additional flare operation, and is weighing this and other considerations in its efforts in developing ozone reduction strategies in order to meet the ozone NAAQS.

12. Requirement for all sources – including true minor sources – to comply with rolling-12 month total recordkeeping differs from Division policy and is burdensome to true minor sources; but if applicable, all sources in the NAA should be subject to the same requirement.

Response: The precedent for the requirement to maintain rolling 12-month totals is already set in the statewide provisions under Section XVII.C.1. This requirement was established based on the dynamic nature of the drilling and completion activities for wells. Since production and associated emissions increases occur throughout the year, the rolling 12-month recordkeeping requirement was adopted.

13. Installing and operating auto-igniters and continuous monitoring surveillance systems will incur significant capitol costs, and provide questionable environmental benefit.

Response: The Division is currently considering the costs of its draft continuous monitoring requirements and has asked for input from stakeholders. The environmental benefit would be ascribed to the telemetric equipment ensuring that equipment is operating continuously, or notifying the operator that it is not so it can be brought into compliance quickly.

14. Refracing and well stimulation trigger definition of modification, which differs from Division's 2006 position.

Response: The Division is currently evaluating the impacts of identifying refracing and stimulating as modifications and has asked for input from stakeholders.

The intent behind this change is to clearly identify when an operator must evaluate if a control device is required on an uncontrolled tank battery. Production and associated emissions increases are likely to occur when a new well is completed or an existing well is recompleted or refraced. Therefore, it makes sense to define these activities as a modification under the threshold approach, so operators are clear about the circumstances under which they should evaluate a control requirement. Refracing was not considered a "modification" under the system-wide approach since the production increase that occurs must be tracked and incorporated into the overall emissions reduction demonstrations.

15. Encourage the use of vapor recovery units.

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Response: The Division is currently evaluating the ability of control equipment in meeting 98% vs. 95% capture and control efficiencies, considering downtime and other factors. The Division is sensitive to the impact of additional flares and their associated CO_{2e} emissions, considering the Governor's Climate Action Plan, and is weighing this and other considerations in its efforts in developing ozone reduction strategies in order to meet the ozone NAAQS.

16. Allow for public comment on the development of emission factors.

Response: Public comment on a site-specific emissions factor may be provided under the provisions of Regulation 3, Section III.C, when appropriate.

17. The system-wide approach should be phased out sooner than May 1, 2010.

Response: Based on the number of subject sources, the availability of control equipment, the timeframe needed to purchase and install controls, the Division believes it is unreasonable to require the system-wide approach phase out sooner than May 1, 2010.

18. Monitoring requirements' frequency is unspecified.

Response: The draft rule states that monitoring shall be completed on a weekly basis. See Section XII.E.'s main paragraph.

19. Specify what information should be included on the required spreadsheets in Section XII.F.

Response: The Division has made revisions to the draft rule for clarification.

20. Annual reporting frequency associated with the threshold control strategy approach is insufficient; the frequency of reporting should be increased to at least to a semi-annual basis to be consistent with the current reporting requirements for condensate tanks under the system-wide control strategy.

Response: The Division intentionally decreased frequency of reporting to account for the continuous compliance monitoring via auto-igniters and electronic surveillance system. The Division does not believe this constitutes a backsliding issue, as records are required to be maintained on a monthly basis and made available for review upon request.

21. Records should be maintained of not only date, but also duration, of well drilling, refracing, and stimulating.

Response: The Division has made revisions to the draft rule for clarification.

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22. Explain when existing tanks become subject to the various emission control requirements.

Response: The current Regulation 7, Section XII.A.2., in combination with the current APEN exemption of Regulation 3, Section II.D.1.eeee., as adopted in 2006 sets forth control requirements for existing tanks that emit more than 5 tons/year VOCs. The Division's draft language sets more stringent control requirements and more stringent timeframe for compliance than what is currently incorporated in Regulation 7. Specifically, sources currently subject to the 75% system-wide control requirements during the ozone season and 70% during the off-season are proposed to become subject to 80% system-wide standard in the 2009 ozone season, while still subject to the 70% off-season standard.

Those existing tanks that are controlled in order to comply with these system-wide emission standards, then become subject to the 98% threshold standard per control device in May 1, 2010. Any existing tank having actual uncontrolled emissions of greater than 10 tons/yr must also be controlled by 98% beginning May 1, 2010. Any existing tank having actual uncontrolled emissions of greater than 5 tons/yr must also be controlled by 98% beginning May 1, 2011. Finally, the Division proposes that any existing tank having actual uncontrolled emissions of greater than 2 tons/yr must also be controlled by 98% beginning May 1, 2012.

Please note that existing tanks that are modified are no longer considered to be existing tanks, and instead subject to the requirements for new and modified tanks.

23. It appears that this draft language regulates fewer sources than under the current rule; the current rule applies to all tanks and not just those emitting more than two tons/year, where the draft language focuses on those emitting more than two tons/year.

Response: The draft language also regulates the first 90 days of production after well drilling, recompletion, refracing stimulation from all condensate tanks, and therefore more tanks than under the current rule.

The Division intends that all condensate tanks with actual uncontrolled emissions of ≥ 2 tons/year are controlled. The Division has made revisions to clarify this specifically. The current rule's applicability to condensate tanks keys off of APEN reporting thresholds, currently set at the equivalent of 5 tons/year VOCs. (see the APEN exemption of Regulation 3, Section II.D.1.eeee.), and then controls 75% of those emissions per company during the ozone season. The draft language controls all tanks with actual uncontrolled emissions of ≥ 2 tons/year, and requires all of these tanks to control emissions by 98%, throughout the entire year. Thus, the draft language is more stringent than the current rule.

24. If the goal is to control all tanks emitting more that 2 tons/year, then the Division should phase out control requirements for existing tanks emitting between 1 and 2

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tons/year that, under the system-wide approach were controlled and thus must continue to control under the threshold approach.

Response: The goal is to achieve ozone emissions reductions. If a source decided to control a 1 ton/year tank to comply with the system-wide control strategy, that tank is still required to be controlled under the proposed threshold control strategy. Otherwise that 1 ton/year source is exempt from complying with the emission threshold control strategy. The Division questions the removal of emissions controls, which would translate into an increase in ozone emissions.

25. Specify applicability thresholds in tons/year instead of referencing APEN reporting thresholds and throughout Regulation 7, Section XII.

Response: The Division will consider incorporating this change.

26. The applicability section is too vague.

Response: The Division will review this section for possible revisions.

27. Explain why February 1, 2009 was identified to distinguish new and modified tanks.

Response: This date is keyed off the effective date of the draft rule, which assuming the rule is adopted by the AQCC in December 2008, is essentially February 1, 2009.

28. Specify methodology sources use to estimate emissions from tanks – actual and projected annual emissions – in the draft language.

Response: The Division is reluctant to incorporate methodologies in the rule and ultimately the SIP that may change in the future. The Division has developed methodologies in conjunction with sources and testing facilities to determine appropriate emissions calculation methods and because this is there is limited data specific to condensate tanks, the Division believes flexibility is necessary.

29. Recordkeeping requirements for tanks subject to the 90-day control requirements of Section XII.D.1. are missing.

Response: The Division has made revisions that address these issues.

30. The exemptions from system-wide controls and provision for an alternative emissions control equipment found in the current Regulation 7, Section XII.A.8 and XII.A.9. should only apply to the system-wide approach on a limited basis.

Response: The Division has made revisions that address these issues.

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31. Remove the Director's discretion of approval throughout the draft rule and replace it with EPA's approval.

Response: The draft rule does not include any new allowances for Division approval, only including those provisions as already allowed under the currently adopted rule.

32. Revise applicability, Section XII.A.1.b., to include compressor and drip stations that are located upstream of a natural gas plant "or deliver to gas sales transmission pipeline".

Response: The Division considered this during the negotiation of the 2006 Early Action Compact and determined that the characteristics of condensate at compressors and drip stations were different than the condensate removed during separation at the well, and thus should be addressed separately.

33. Add a requirement for combustion devices to have a manufacturer's guarantee of meeting the specified control efficiency at actual operating conditions.

Response: These issues will be addressed through the permitting process, and not incorporated into rule language.

34. Add a requirement for combustion devices to conduct performance tests to demonstrate meet control efficiency.

Response: The Division does not intend to require stack testing on each control device. The Division believes that the requirement to meet the % control is adequate, and reserves the right to request any source to demonstrate compliance with that standard.

35. Add a requirement that all emissions from condensate tanks to prohibit leaking gaskets and fittings, and stuck open pressure relief valves, etc., such that all emissions shall be routed to combustion devices.

Response: Controlled tanks are designed so that the pressure relief valve is routed to the control device. Checking for leaking gaskets and fittings is a current requirement of Regulation 7, Section XII.

36. Add a requirement specifying what should be done if the presence of smoke is observed from the combustion device.

Response: The Division has made revisions to address this issue. Presence of smoke is an indicator of poor performance of a combustion control device, and as such is an indicator of a potential compliance issue meeting the specified control efficiency.

37. Require all subject sources to maintain a spreadsheet of rolling total production.

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Response: The draft rule does require maintaining records of rolling total production. See Section XII.F. in entirety.

38. Require sources exempt from the system-wide approach based on company-wide emissions being less than or equal to 30 tons/year, to maintain associated records.

Response: The Division will consider incorporating this change.

Other Section XII. Comments:

1. Gas plants, similar to condensate tanks, should be subject to the 98% control efficiency requirements.

Response: The Division is currently evaluating whether or not gas plants should be subject to the 98% control efficiency requirements.

2. There is no monitoring, recordkeeping and reporting requirements for glycol dehydration units.

Response: Operator's are only subject to this portion of the rule when the glycol dehydrator exceeds APEN reporting thresholds. Once APEN reporting is triggered, the operator must maintain emissions records to comply with Regulation 3. Therefore, emissions records are required. There are many different configurations for controlling emissions by 90%. Therefore, specific monitoring requirements are handled on a case-by-case basis when a permit is required.

3. Gas-processing plants are subject to Sections XII.G., XII.H. and XVI.

Response: The Division has made revisions that address these issues.

4. Clarify whether or not gas-condensate-glycol separator" is part of a dehydrator, like a flash tank and which emission factors should be used to estimate their emissions.

Response: The Division will consider incorporating this change.

5. Explain what a "grouping" means in terms of dehydrators in Section XII.H.

Response: A grouping of dehydrators would be two or more dehydrators operating at the same site. For example, if there were three dehydrators at the same site, with combined emissions of 15 TPY or more, any dehydrator in that "group" with emissions greater than the APEN reporting threshold would have to be controlled. However, all dehydrators (APEN

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exempt or not) in that "group" would be considered for the cumulative emission total for the determination of whether the total emissions are 15 TPY or greater.

Exemption Comments:

1. Provide justification for changes in APEN and permit exemptions; share information on how "significant categories" were determined.

Response: The Division is currently revisiting proposed changes to exemptions. Proposed changes in exemptions were based on input from experienced Division staff, and in some cases included re-evaluating emissions estimates for specific source categories. Some changes were made to provide equity among sources subject to APEN and permitting requirements in a non-attainment area. In other cases, proposed changes were made to build an inventory of emissions, as emissions from such source categories were suspected to be higher than previously thought.

2. Provide rationale for eliminating exemptions only for oil and gas sources and not others.

Response: The Division is currently revisiting proposed changes to exemptions. Proposed changes in exemptions were based on input from experienced Division staff, and in some cases included re-evaluating emissions estimates for specific source categories. In other cases, proposed changes were made to build an inventory of emissions, as emissions from such source categories were suspected to be higher than previously thought.

3. Keep exemptions out of SIP since they will not yield enforceable emissions reductions.

Response: Modifications to the exemptions will be included in the SIP because the current list of exemptions is in the current SIP.

4. Do not add permit exemptions for APEN exemptions that are being removed.

Response: The Division is currently revisiting proposed changes to exemptions. While proposed changes were made adding permit exemptions, in reality these same categories were previously permit exempt (per Regulation 3, Part B, Section II.D.1.a), having been exempt from APEN (or reporting) requirements in the first place.

These pieces of equipment or activities are currently APEN, and thus, permit exempt. The Division is building an inventory of emissions from these activities. This inventory will better inform not only the future process of identifying ozone reduction strategies necessary

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for the next ozone SIP process, but also the amount of resources necessary to do so – this may include some form of permitting.

5. Remove the permit exemption for drill rigs.

Response: The Division is currently evaluating changes in exemptions based on stakeholder's input. The Division intended to build an inventory of emissions from drill rigs, and keep the permitting exemption in place until such time as it believes it necessary to further address drill rig emissions.

6. Use WRAP Phase III – IPAMS data to determine if APEN exemptions should be removed.

Response: The Division is currently revisiting proposed changes to exemptions. Further the Division has asked industry to provide background information, including supporting the IPAMS data, to better understand the emissions per equipment/activity and the total number of that equipment/activity within the non-attainment area and statewide.

7. Keep those exemptions in place specific to produced wastewater; costs to sample produced wastewater to determine percentage of oil are impractical.

Response: The Division is currently evaluating changes in exemptions based on stakeholder input. Further the Division has asked industry to provide background information to better understand the emissions per equipment/activity and the total number of that equipment/activity within the non-attainment area and statewide.

Case-by-Case RACT Comments:

1. Do not rely on the Federal Register publication to determine when permit applications are to be submitted for existing sources.

Response: The Division is currently evaluating which event should be used to determine when permit applications are to be submitted for existing sources, and has asked for input from stakeholders.

2. Require those sources in the 8-hour ozone NAA that were outside of the 1-hour ozone NAA, that are now considered to be existing sources to submit a RACT analysis and permit application by February 1, 2009.

Response: The Division is currently evaluating which event should be used to determine when permit applications are to be submitted for existing sources, and has asked for input from stakeholders. The Division is considering a reasonable, administratively manageable phase-in of RACT requirements for these sources.

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3. Removing and updating requirements for existing sources (pre-1989) may be considered as backsliding.

Response: The Division has made revisions to address these issues.

4. Define the different geographic areas identified (i.e. 1-hour ozone non-attainment area, any ozone non-attainment area not previously part of the 1-hour ozone non-attainment area).

Response: The Division is currently evaluating how best to clarify these areas.

5. Explain how inspectors, EPA or others will know if a RACT requirement in a permit is RACT, or is taken to avoid RACT.

6. Response: This requirement is specific to pre-1989 existing sources in the 1-hour ozone non-attainment area. To understand if a RACT requirement is RACT or is taken to avoid RACT, an individual would have to review a source's permit and possibly historic files. Regardless, the Division enforces all emission limits, work practices or other requirements, including those considered RACT, regardless of their being specifically identified in a permit as RACT. The Division requests EPA to further explain their concern with this issue.

7. Explain the logic behind the alternate deadlines for existing sources subject to RACT.

Response: The intention is to distinguish RACT deadlines for subject sources, as well as include language that will cover any future ozone non-attainment designations. Current deadlines apply only to existing (pre-1989) and new sources in the 1-hour ozone non-attainment area. The new 8-hour ozone non-attainment area includes sources that were in existence pre-1989. However since they are not currently subject to these requirements, being located outside of what was the 1-hour non-attainment area, they would automatically be operating inconsistently with Regulation 7 RACT requirements by the simple expansion of Regulation 7 to the entire 8-hour ozone non-attainment area, or any future ozone non-attainment area.

The draft rule intends to give all existing sources – sources in existence prior to an ozone non-attainment designation – time to meet the requirements of Regulation 7. The draft language allots 1 year to submit a RACT analysis and permit modification and three years to implement RACT.

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Out of Scope Comments – address at later date:

1. **Provide draft language on pneumatics.**

Response: The Division provided draft language specific to pneumatic valves on May 28, 2008.

2. **Provide draft language specific to NO_x emissions reductions.**

Response: The Division will provide draft language specific to NO_x reductions at a later date.