



MEMORANDUM

TO: Members of the Air Quality Control Commission and Parties to the December 12-15, 2023 Rulemaking Hearing on Emission Reduction Requirements for Lawn and Garden Equipment, Regulation Number 29 (5 CCR 1001-33)

FROM: Jojo La, Director, Environmental Boards and Commissions,
Administrator for the Air Quality Control Commission;
Commission Staff

DATE: January 29, 2024

SUBJECT: Final Action Documents: Emission Reduction Requirements for Lawn and Garden Equipment, Regulation Number 29 (5 CCR 1001-33)

The hearing record for the Emission Reduction Requirements for Lawn and Garden Equipment, Regulation Number 29 (5 CCR 1001-33) was closed on December 12, 2023. On January 10, 2024, Draft Final Action documents were provided to parties for review of the proposed revisions. These documents represented the Commission's preliminary final approval decisions, along with the final draft of the accompanying Statements of Basis, Specific Statutory Authority, and Purpose.

Parties and the Air Pollution Control Division were provided with the opportunity to comment on the Draft Final Action documents. According to the Commission's Motion on December 15, 2024, "[c]omments [we]re limited to administrative matters like typographical errors, formatting, and consistency with the Commission's policy determinations." The Draft Final Action documents were also posted on the Commission's [website](#). Comments were due by January 23, 2024.

The Commission received comments from the Air Pollution Control Division, the City and County of Denver, and the Regional Air Quality Council. All comments are available on the Commission's [website](#). The following comments were received.

AIR POLLUTION CONTROL DIVISION

There is an extra word in this provision (see underlined), III.C The restrictions in Sections III.A. and III.B. also apply to lawn and garden services contracted for by and provided to the federal government, a state government agency, or a local government.

And, Section IV.B.2. needs to be added to this provision (suggestion added as bold), IV.B.3. For the equipment listed in Sections IV.B.1. **and IV.B.2.**

CITY AND COUNTY OF DENVER

I am reviewing the Reg 29 rule language redline for the upcoming AQCC hearing. The memo that you provided summarizing the rule changes looks good from our perspective, but the rule redline does not reflect all the edits summarized in that memo. For example, in the memo it documents that the Commission's intent was to strike the "hours of operation" reporting requirement from Reg 29, Section IV; however, in the redline the hours of operation are not struck. Is this just a clerical error or is it an issue we need to raise to the Commission since the memo does not reflect the rule language?

REGIONAL AIR QUALITY COUNCIL

STATEMENT OF POSITION

As invited by the Commission in its January 10, 2024 memorandum, the RAQC provides the following comments on the documents provided for the preliminary decision on Regulation Number 29, Emission Reduction Requirements for Lawn and Garden Equipment.

1. Because this document will remain part of the official record for this rulemaking, the RAQC recommends that the introductory text presented in the January 10, 2024 memorandum be revised to better reflect the matter in front of the Commission, as follows:

The hearing record for the Emission Reduction Requirements for Lawn and Garden Equipment, Regulation Number 29 (5 CCR 1001-33) was opened on December 11, 2023, then closed on December 14, 2023.

The Air Quality Control Commission (Commission) considered two (2) full rule proposals for the new Regulation 29. They were, in order of receipt by Commission staff:

- The Regional Air Quality Council (RAQC) rule proposal submitted to Commission staff on September 2, 2023. Commission staff classified this proposal as the “RAQC Alternate Regulation 29 Proposal”.
- The Air Pollution Control Division (APCD) rule proposal submitted to Commission staff on September 7, 2023. Commission staff classified this proposal at the “primary Regulation 29 proposal”.

After presentations, rebuttal statements, and deliberations, the Commission passed the following motion on December 15, 2023: ...”

2. In section IV.B.3. of the proposed regulation, should this line read “...in Section IV.B.1. *and 2.*”?
3. In section IV.B.3.a. of the proposed regulation, should the phrase “*...model number, and hours of operation...*” be deleted, as indicated in the January 10, 2024 memorandum?
4. The RAQC recommends the following language be considered for section IV.B. of the proposed regulation so that the emissions from the reported use of restricted gas-powered lawn and garden equipment can be estimated for air quality planning purposes:

IV.B.5. All information required to be reported to the Division shall be made available to the public on an annual basis.

This memorandum serves to provide notice that the following revisions have been incorporated into the proposed Final Action, including, but not limited to, the revisions in the documents sent to parties on January 10, 2024.

- All revisions from the Air Pollution Control Division’s November 16, 2023 rebuttal and revised by its December 6, 2023 Errata, along with the Statement of Basis and Purpose have been incorporated.
- Use Restrictions:
 - Internal combustion engine size are restricted to smaller than 7 kw (10 horsepower) for all use restrictions, except keeping 25 horsepower for state government;
 - Use restrictions for local governments in the nonattainment area begin June 1, 2025, and conforming changes have been made to recordkeeping and reporting;

- Federal government use restrictions begin June 1, 2025 within the nonattainment area to less than 10 horsepower. Conforming changes to this section (lawn and garden services for which the federal government is responsible) and the Statement of Basis and Purpose have also been made.
- Reporting:
 - Section IV.C.2.b. has been amended as shown in the Air Pollution Control Division’s Rebuttal presentation slide #3 as follows: “For gasoline-powered equipment used during the June 1 through August 31 time period, documentation demonstrating the circumstances requiring the use of such equipment such as supply chain issues, need for heavy-duty scale equipment, or a purpose listed in Section I.B.”;
 - Sections IV.B. and IV.C. has been revised to replace “using lawn and garden equipment” with “conducting or contracting for lawn and garden services”, to reflect the Division’s intent as testified during rebuttal;
 - Hours of operation:
 - The requirement to report hours of operations and model number has been removed;
 - Federal government reporting is consistent with the other reporting provisions.
- Statement of Basis and Purpose
 - The adoption date has been updated;
 - The following language has been added to the Statement of Basis and Purpose: “The Commission considered restrictions on use of smaller push and hand-held gasoline-powered lawn and garden equipment by commercial contractors as well as a sales prohibition on this equipment and recognize the importance of replacing gasoline-powered lawn and garden equipment with electric alternatives to reduce the emissions of ozone precursors and other pollutants. The Commission received testimony noting that the market is already trending in this direction and support the acceleration of this market transition. To that end, the Commission asks the Division to monitor the market share of electric lawn and garden equipment and report this information to the Commission. The Commission expects the Division to request a rulemaking hearing be held no later than the end of 2025 for commercial use restrictions of gasoline-powered push and hand-held lawn and garden equipment. The Division should also consider whether to include a sales prohibition in its rulemaking request. ”
- Correction of any typographical, grammatical and formatting errors throughout the regulation, including:
 - Deletion of the extra word in this provision (see underlined): “III.C The restrictions in Sections III.A. and III.B. also apply to lawn and garden services contracted for by and provided to the federal government, a state government agency, or a local government.”
 - A provision was added to Section IV.B.2. (as shown in bold): “IV.B.3. For the equipment listed in Sections IV.B.1. **and IV.B.**”, as this section was inadvertently left out for the first draft redline.

The Commission is scheduled to consider final action on Regulation Number 29, Emission Reduction Requirements for Lawn and Garden Equipment (5 CCR 1001-33) at its February 14-16, 2024 meeting.

For any questions or comments, please feel free to contact me at jojo.la@state.co.us or 720-277-9262.

ATTACHMENTS:

Regulation Number 29 Final Action Document Redlines Version
 Regulation Number 29 Final Action Document Clean Version