

## CHAPTER 300

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**HEALTH AND ENVIRONMENT**

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**HOUSE BILL 99-1351**

BY REPRESENTATIVES Mitchell, Hoppe, Berry, Fairbank, Miller, Taylor, Webster, and Young;  
also SENATORS Teck, Lamborn, and Tebedo.

**AN ACT**

CONCERNING AIR POLLUTION AFFECTING VISIBILITY, AND MAKING AN APPROPRIATION IN CONNECTION  
THEREWITH.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 25-7-105, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**25-7-105. Duties of commission.** (17) (a) NOT LATER THAN DECEMBER 31, 2002, AND NO LESS FREQUENTLY THAN EVERY FIVE YEARS THEREAFTER, THE COMMISSION SHALL CONDUCT RULE-MAKING HEARINGS TO APPROVE AN UPDATE TO THE EMISSION INVENTORIES FROM STATE AND FEDERAL PUBLIC LAND MANAGEMENT AGENCY ACTIVITIES ON PUBLIC LANDS RESULTING IN EMISSIONS OF ANY CRITERIA POLLUTANT, INCLUDING SURROGATES OR PRECURSORS FOR THAT POLLUTANT, THAT AFFECT ANY MANDATORY CLASS I FEDERAL AREAS IN COLORADO BY REDUCING VISIBILITY IN SUCH AREAS. AT A MINIMUM, SUCH INVENTORIES SHALL REPORT ON EMISSIONS FROM THE SOURCES SET FORTH IN PARAGRAPH (d) OF THIS SUBSECTION (17).

(b) THE COMMISSION SHALL ENSURE THAT THE DIVISION PREPARES INVENTORIES FOR ALL STATE LAND MANAGEMENT AGENCIES WITH JURISDICTION OVER STATE LANDS, INCLUDING, WITHOUT LIMITATION, THE STATE LAND BOARD, THE DEPARTMENT OF AGRICULTURE, AND THE DEPARTMENT OF NATURAL RESOURCES, TO PROVIDE AN INVENTORY OF EMISSIONS FROM LAND MANAGEMENT ACTIVITIES THAT ARE SOURCES OF POLLUTANT EMISSIONS THAT MAY AFFECT ANY MANDATORY CLASS I FEDERAL AREA IN COLORADO BY REDUCING VISIBILITY IN SUCH AREAS; EXCEPT THAT THE COMMISSION SHALL EXEMPT FROM THE INVENTORY REQUIREMENT ANY SOURCES OR CATEGORIES OF SOURCES THAT IT DETERMINES TO BE OF MINOR SIGNIFICANCE.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(c) THE COMMISSION SHALL USE THE EMISSION INVENTORIES PROVIDED UNDER THIS SUBSECTION (17) TO DEVELOP CONTROL STRATEGIES FOR REDUCING EMISSIONS WITHIN THE STATE AS A COMPONENT OF THE VISIBILITY LONG-TERM STRATEGIES FOR INCLUSION IN THE STATE IMPLEMENTATION PLAN AND FOR INCLUSION IN ANY ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT REQUIRED TO BE PERFORMED UNDER THE FEDERAL "NATIONAL ENVIRONMENTAL POLICY ACT OF 1969", 42 U.S.C. SECS. 4321 TO 4347.

(d) THE RULE-MAKING HEARING HELD TO APPROVE THE INVENTORIES PROVIDED UNDER THIS SUBSECTION (17) SHALL REQUIRE PUBLIC PARTICIPATION AND SHALL REQUIRE THE REPORTING OF BOTH CURRENT EMISSIONS AND PROJECTED FUTURE EMISSIONS, OVER AT LEAST A FIVE-YEAR PERIOD, FROM THE FOLLOWING SOURCES ON PUBLIC LAND THAT AFFECT ANY MANDATORY CLASS I FEDERAL AREAS IN COLORADO:

(I) STATIONARY SOURCE EMISSIONS, BASED ON EXISTING AIR POLLUTION EMISSION NOTICES FILED WITH THE DIVISION;

(II) MOBILE SOURCES UTILIZING STATE LANDS, EXCLUDING STATE AND FEDERAL HIGHWAYS;

(III) PAVED AND UNPAVED ROADS;

(IV) FIRES ON PUBLIC LANDS FROM ALL SOURCES;

(V) BIOGENIC SOURCES, INCLUDING EMISSIONS FROM FLORA AND FAUNA.

(e) EACH INVENTORY PROVIDED UNDER THIS SUBSECTION (17) SHALL STATE THE BASIS AND METHODOLOGY USED TO ACCUMULATE THE DATA AND SHALL BE BASED UPON DATA THAT ARE:

(I) DEVELOPED NO LATER THAN THREE YEARS PRIOR TO THE SUBMITTAL; AND

(II) NO MORE THAN FIVE YEARS OLD.

(18) UPON PETITION BY ANY PERSON OR ON ITS OWN MOTION, FOR GOOD CAUSE SHOWN, THE COMMISSION MAY DETERMINE THAT THE EMISSION INVENTORY OF ANY CRITERIA POLLUTANT, INCLUDING A SURROGATE OR PRECURSOR FOR THAT POLLUTANT, FOR A REGION OF THE STATE IS INADEQUATE FOR PURPOSES OF COMMISSION RULE-MAKING OR ADJUDICATIONS IN CONNECTION WITH DEVELOPMENT OF THE STATE IMPLEMENTATION PLAN, SELECTION OF POLLUTION CONTROL STRATEGIES, ATTRIBUTION OF EMISSIONS TO SOURCES OR CATEGORIES OF SOURCES, OR FINDINGS OF ADVERSE IMPACTS. IF, AFTER CONDUCTING A PUBLIC HEARING IN ACCORDANCE WITH THE RULE-MAKING PROVISIONS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., THE COMMISSION FINDS THAT THE EMISSION INVENTORY SHOULD BE REVISED TO TAKE INTO CONSIDERATION EXISTING CREDIBLE STUDIES OR SCIENTIFIC DATA IN ORDER TO REASONABLY ATTRIBUTE EMISSIONS TO SOURCE CATEGORIES, IT SHALL DIRECT THAT SUCH REVISION BE PERFORMED PRIOR TO A FINAL RULE-MAKING OR ADJUDICATION.

**SECTION 2.** 25-7-212 (3), Colorado Revised Statutes, is amended to read:

**25-7-212. Actions of federal government affecting visibility - evaluation report.** (3) (a) The general assembly hereby finds, determines, and declares, after reviewing the factors that contribute to regional haze and visibility impairment in ~~the west~~ COLORADO, that significant contributions to regional haze and visibility impairment emanate from federal lands within the state of Colorado AND FROM FEDERAL LANDS IN OTHER PARTS OF THE WEST. For the purpose of addressing regional haze visibility impairment in COLORADO'S mandatory class I federal areas, the federal land manager of ~~such areas~~ EACH SUCH AREA shall develop a plan for evaluating visibility in ~~each mandatory class I federal~~ THAT area by visual observation or other appropriate monitoring technique approved by the federal environmental protection agency and shall submit such plan for approval to the division for incorporation by the commission as part of the state implementation plan. Such submittal and compliance by the federal land managers shall be done in a manner and at a time so as to meet all present or future federal requirements for the protection of visibility in any mandatory class I federal area. Such plan shall only be approved by the commission if the expense of implementing such a plan is borne by the federal government.

~~(b) (I) Federal officials shall confer with the commission and the division and shall ensure that all data developed for visibility protection purposes is made available to the division and the commission.~~ IN ADDITION TO THE PLAN SUBMITTED BY EACH FEDERAL LANDMANAGER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE RESPONSIBLE FEDERAL LAND MANAGEMENT AGENCY SHALL PROVIDE AN EMISSION INVENTORY TO THE COMMISSION OF ALL FEDERAL LAND MANAGEMENT ACTIVITIES IN COLORADO OR OTHER STATES THAT RESULT IN THE EMISSION OF CRITERIA POLLUTANTS, INCLUDING SURROGATES OR PRECURSORS FOR SUCH POLLUTANTS, THAT AFFECT ANY MANDATORY CLASS I FEDERAL AREA IN COLORADO BY REDUCING VISIBILITY IN SUCH AN AREA. SUCH EMISSION INVENTORY SHALL BE SUBMITTED TO THE COMMISSION NO LATER THAN DECEMBER 31, 2001, AND NO LESS FREQUENTLY THAN EVERY FIVE YEARS THEREAFTER.

(II) EACH EMISSION INVENTORY SUBMITTED TO THE COMMISSION SHALL BE SUBJECT TO APPROVAL BY THE COMMISSION PURSUANT TO SECTION 25-7-105 (17). THE COMMISSION SHALL EXEMPT FROM THE INVENTORY REQUIREMENT ANY SOURCES OR CATEGORIES OF SOURCES THAT IT DETERMINES TO BE OF MINOR SIGNIFICANCE.

(III) THE COMMISSION SHALL ADOPT RULES TO FULLY IMPLEMENT THE GENERAL ASSEMBLY'S INTENTION TO EXERCISE STATE POWERS TO THE MAXIMUM EXTENT ALLOWED UNDER SECTION 118 OF THE FEDERAL ACT IN REQUIRING EACH FEDERAL LAND MANAGEMENT AGENCY WITH ANY PRESENCE IN THE STATE OF COLORADO TO DEVELOP AND SUBMIT TO THE DIVISION AN INVENTORY OF EMISSIONS FROM LANDS, WHEREVER SITUATED, WHICH COULD HAVE ANY EFFECT ON VISIBILITY WITHIN MANDATORY CLASS I FEDERAL AREAS LOCATED IN COLORADO. THE COMMISSION AND THE DIVISION SHALL USE THE INFORMATION FROM THESE EMISSION INVENTORIES:

(A) TO DEVELOP CONTROL STRATEGIES FOR REDUCING EMISSIONS WITHIN THE STATE OF COLORADO AS A PRIMARY COMPONENT OF THE VISIBILITY LONG-TERM STRATEGIES FOR INCLUSION IN THE STATE IMPLEMENTATION PLAN;

(B) IN ANY ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT REQUIRED TO BE PERFORMED UNDER THE FEDERAL "NATIONAL

ENVIRONMENTAL POLICY ACT OF 1969", 42 U.S.C. SECS. 4321 TO 4347; AND

(C) TO EXERCISE ALL POWERS AND PROCESSES THAT EXIST TO SEEK REDUCTIONS IN EMISSIONS OUTSIDE THE STATE OF COLORADO THAT REDUCE VISIBILITY IN COLORADO MANDATORY CLASS I FEDERAL AREAS.

(IV) THE COST OF PREPARING AND SUBMITTING INVENTORIES PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE BORNE BY THE FEDERAL GOVERNMENT.

**SECTION 3. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the stationary sources control fund not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 1999, the sum of fourteen thousand seven hundred two dollars (\$14,702) and 0.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 1999