

**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 COLORADO'S IMPLEMENTATION  
PLAN TO MEET THE REQUIREMENTS OF CLEAN AIR ACT SECTION 110 (A)(2)(D)(I)-  
INTERSTATE TRANSPORT REGARDING THE NATIONAL AMBIENT AIR QUALITY  
STANDARDS FOR 8-HOUR OZONE

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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 Division proposes to revise Colorado's Interstate Transport SIP by revising the ozone transport section. The Division seeks the Commission's approval of this revision in response to comments from the U.S. Environmental Protection Agency. This proposal does not address all of the issues raised by EPA in recent comments, but instead focuses on issues concerning potential ozone transport. Because the element of the Interstate Transport SIP that addresses ozone transport is relevant to EPA's review and approval of any Ozone SIP revisions, the Division seeks the Commission's action in December when the Commission will consider the State's Ozone Action Plan.

In February of 2007 the Commission adopted a Interstate Transport SIP for ozone and PM<sub>2.5</sub>.<sup>1</sup> This SIP was transmitted to EPA in June of 2008 following legislative review and approval. Accordingly, when EPA received the Interstate Transport SIP, it did not reflect the monitoring results from the summer of 2007, the violation of the 1997 ozone National Ambient Air Quality Standard (NAAQS) and EPA's subsequent designation of nonattainment for the Denver Metro Area and North Front Range. EPA has since informed the Division of this and other deficiencies with this Transport SIP. The Division prepared a revised plan for consideration as part of the Ozone SIP. However, EPA has since informed the Division that Colorado must address the interstate transport of ozone in the Interstate Transport SIP, not in the Ozone SIP. Thus, the Division asked the Commission to bifurcate the proceeding and hear the Interstate Transport SIP revision separately.

Colorado's Interstate Transport SIP must demonstrate, among other things, that Colorado's air pollution sources will not contribute significantly to nonattainment, or interfere with maintenance by, any other state of the 1997 ozone NAAQS, 0.08 ppm. See 42 U.S.C. § 7410(a)(2)(D)(i). This proposed ozone transport section includes analysis, monitoring and modeling information demonstrating that Colorado does not contribute significantly to nonattainment or interfere with maintenance by any other state with respect to the 0.08 ppm ozone NAAQS. Thus, the Division believes that the revised ozone transport section adequately

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<sup>1</sup> While this SIP addresses PM 2.5, nothing in the proposed revision now before the Commission pertains to that pollutant.

addresses EPA's comments. This SIP revision does not address the 2008 ozone NAAQS, .75 ppm because Colorado will not be obligated to submit SIP revisions to address this standard until EPA defines a schedule to address that requirement.

#### PRESENTATION TIME ESTIMATE

The Division estimates that it will need **one hour**.

#### FACTUAL AND LEGAL ISSUES

The Division has received comment from one party, Wild Earth Guardians. Below, the Division identifies the issues raised by WEG, as well as the Division's responses to each.

#### ***Has the Division failed to demonstrate that Colorado's ozone will not interfere with maintenance in downwind states?***

The Division assessed Colorado's potential to interfere with maintenance of the NAAQS in downwind states by evaluating the magnitude of the problem in Colorado and the magnitude of receiving states. With respect to Colorado, the primary concern is the Denver Metro Area/North Front Range Non-Attainment Area. The Division has concluded that this region constitutes the source with the greatest potential to threaten maintenance of the ozone NAAQS in receiving States.

The demonstration that Colorado will not interfere with maintenance of the NAAQS in receiving States starts with attainment and maintenance in Colorado. The Division and the RAQC have proposed an Ozone Action plan that demonstrates attainment in 2010 for the Non-Attainment Area. Once the ozone NAAQS is attained in the DMA/NFR, there can be no further violations at any monitors in the nonattainment area. The Denver nonattainment area can only be redesignated to unclassifiable or attainment if a Maintenance SIP showing three years of no violations is approved by EPA. Maintenance is assured through the implementation of SIP measures both on the books and new measures supported by ongoing ambient monitoring. Further, if any measures are not effective or violations continue, the "no-backsliding" provisions of the CAA will require further SIP revisions.

With regard to receiving States, the Division evaluated potential impacts on downwind areas that are meeting or coming into attainment of the NAAQS. Analysis of monitoring data from nearby states shows that no monitors are in violation of the NAAQS. The Division asserts that Colorado cannot interfere with maintenance of the ozone NAAQS in downwind areas when those areas are monitoring no violations of the NAAQS. Further, it is highly unlikely that Colorado will interfere with maintenance in receiving States given the fact that the distance to the closest nonattainment areas.

#### ***Has the Division considered EPA guidance for assessing the significance of downwind impacts?***

EPA guidance identifies four factors to address in this assessment. The Division analyzed each factor, as reflected in the Interstate Transport Plan. A summary of the Division's conclusions for each factor follow. The Division evaluated the nature of the ozone problem in the section on monitoring networks in Colorado and nearby states. Colorado has one monitoring station in violation. There are no monitoring stations in violation within any of the other states we include in the analysis.

The Division evaluated any connection between downwind nonattainment problems and upwind sources. The discussion of modeling results and attribution show significant contribution from key sources to ozone levels in the Denver nonattainment area. The Division's analysis demonstrates that the impacts drop substantially beyond the Front Range.

The Division evaluated the ambient impact of emissions from Colorado's sources on the downwind nonattainment problems in Section 1.5, Denver Metro Area/North Front Range Ozone Nonattainment Area Contribution to Downwind Locations:

The conclusion is that ozone formed specifically from sources in the DMA/NFR nonattainment area decreases rapidly in concentration over the eastern plains of Colorado. Therefore, the photochemical modeling that was done for both the DMA/NFR ozone SIP and the Denver EAC suggest that ozone and/or ozone precursors from the Front Range do not contribute significantly to downwind monitors in other states.

Finally, the Division evaluated the availability of highly cost-effective control measures. The photochemical modeling for the "2010 base case" emissions scenario performed for the DMA/NFR Ozone SIP process demonstrates compliance in the Front Range Region with the 8-hour 0.08 ppm ozone NAAQS. The 2010 base case includes only those control measures that are already approved and enforceable. The controls assumed in the modeling are listed in detail on pages 15 and 16 of the Proposed SIP.

#### WITNESSES

1. **Ray Mohr**, Planning and Policy Program, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Mohr will testify regarding the Division's proposed SIP revisions, the background of the proposal and why it satisfies Clean Air Act requirements, as well as addressing any issues raised in connection with this proposal.
2. **Chuck Machovec**, Leader, Modeling and Meteorology Unit, Colorado Department of Public Health and Environment, Air Pollution Control Division. Mr. Machovec may testify regarding the Division's use of modeling results to determine whether the Nonattainment Area would adversely impact other states.
3. **Tom Roan**, Attorney General's Office. Mr. Roan may testify regarding the Division's proposed SIP revisions and any issues raised in connection with these proposed changes. Mr. Roan may also testify regarding any alternate proposal proposals.
4. 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. State of Colorado Implementation Plan to Meet the Requirements of Clean Air Act Section 110 (a)(2)(D)(i) - Interstate Transport regarding 8-Hour Ozone and PM2.5 NAAQS.
2. Statement of Basis and Purpose.

**DATED** this 25th day of November 2008.

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CERTIFICATE OF SERVICE

I hereby certify on this 25th day of November, 2008, a true and correct copy of the foregoing Prehearing Statement was served on the following via electronic mail:

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