

**BEFORE THE AIR QUALITY CONTROL COMMISSION
STATE OF COLORADO**

IN THE MATTER OF PROPOSED REVISIONS TO AMBIENT AIR QUALITY
STANDARDS REGULATION, REGULATION NUMBERS 3, 7, AND 11 FOR THE
DENVER METROPOLITAN & NORTH FRONT RANGE AREA OZONE ACTION PLAN

PREHEARING STATEMENT OF SUNCOR ENERGY (U.S.A.) INC.

Pursuant to the Air Quality Control Commission's (the "Commission") Procedural Rules, 5 CCR 1001-1, Section 1.5.5(5)(c), Suncor Energy (U.S.A.) Inc. ("Suncor"), having been granted party status in the above-captioned rulemaking, hereby submits its prehearing statement.

I. EXECUTIVE SUMMARY

Suncor had the opportunity to participate in the Regional Air Quality Council's ("RAQC") stakeholder process for this rulemaking. Suncor agrees with and supports the proposed changes to the State Implementation Plan ("SIP") as noticed before the Commission, and does not propose any alternative rules or revisions.

On November 7, 2008, Suncor and the Colorado Petroleum Association ("CPA") filed a Motion For Reconsideration of October 20, 2008 Determination (the "Motion"). This Motion requests reconsideration of the Hearing Officer's Order, dated October 20, 2008, which determined that "arguments regarding the Regional Air Quality Council's future consideration of fuel strategies," including those regarding elimination of "the one-pound psi RVP waiver for ethanol blended gasoline," are "within the scope of the notice of the hearing on this matter." As explained fully in the Motion, it is the position of Suncor and the CPA that the Order is improper and the Commission should not consider or hear any evidence in this rulemaking regarding additional fuels strategies, including with respect to the elimination of the one-pound psi RVP Waiver (the "RVP Waiver"), for several reasons, but principally because: (1) these matters are clearly outside the scope of the notice for the present rulemaking and were never intended by the RAQC or the Colorado Department of Public Health and Environment ("CDPHE") to be considered here – but rather the RAQC and CDPHE expressly contemplated these matters to be considered during a separate stakeholder process and potential supplemental SIP in 2009 due to the complexity of the potential fuels strategies and the recognition that these strategies needed to be studied thoroughly before recommendations could be made to the Commission, and (2) consideration of these matters would unnecessarily complicate the current SIP and involve a waste of time and resources, as these strategies are already planned to be evaluated in 2009.

In the event that the Motion is not granted, Suncor expressly reserves the right put on additional evidence at the prehearing conference, including exhibits, witnesses, and written testimony, and to submit a rebuttal statement to address any additional fuels strategies, including with respect to elimination of the RVP Waiver. It is Suncor's sincere hope that such additional

time and resources will be rendered unnecessary by the Hearing Officer or Commission granting the Motion, which would exclude consideration of such matters from the present rulemaking so that they can be properly addressed in 2009 in the manner contemplated by the RAQC and CDPHE.

II. STATEMENT OF FACTUAL AND LEGAL ISSUES

None, except for the issues set forth in the Motion.

III. LIST OF ISSUES TO BE RESOLVED BY THE COMMISSION DURING THE HEARING.

None, except for the issues set forth in the Motion.

IV. EXHIBITS, WITNESSES, AND WRITTEN TESTIMONY.

Suncor does not anticipate presenting any exhibits, witnesses, or written testimony unless the Motion is not granted or other issues develop in the course of the proceeding that would change the proposed rule and SIP. In such event, Suncor reserves the right to put on all such evidence as required to address such issues. In addition, based on the issues that are presented at this time, Suncor may provide comments of a legal and policy nature.

V. NO ALTERNATIVE PROPOSED RULES OR REVISIONS

Suncor does not propose any alternative rules or revisions.

VI. TIME ALLOCATION AT THE HEARING

Suncor cannot provide an accurate estimate of the amount of time needed for Suncor's direct testimony, rebuttal testimony, and cross-examination of other parties' witnesses until the Motion is adjudicated and Suncor has reviewed the prehearing statements and rebuttal statements of other parties. If the Motion is granted, Suncor will only require that it be allocated 5 minutes to present direct testimony. If, however, the Motion is not granted, Suncor will require significantly more time for direct testimony, rebuttal testimony, and cross-examination. Suncor, therefore, respectfully reserves the right to request additional time for such purposes.

Respectfully submitted this 13th day of November, 2008.

s/ Michael Korenblat
Michael Korenblat
Director, Legal Affairs
Suncor Energy (U.S.A.) Inc.
7800 East Orchard Road, Suite 300
Greenwood Village, CO 80111
Phone: 303-793-8052
Fax: 303-793-8057

mkorenblat@suncor.com

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing **PREHEARING STATEMENT OF SUNCOR ENERGY (U.S.A.) INC.** in the Matter of Proposed Revisions to Ambient Air Quality Standards Regulation, Regulation Numbers 3, 7, and 11 for the Denver Metropolitan & North Front Range Area Ozone Action Plan was emailed to the following on the 13th day of November, 2008.

COMPANY/ORGANIZATION	NAME	EMAIL
Air Quality Control Commission	Theresa Martin Douglas Lempke Barbara Roberts Ashley Campsie Rad Byerly	Theresa.Martin@state.co.us Douglas.lempke@state.co. barbararoberts@gmail.com Ashley.campsie@ch2m.com hrbyerly@gmail.com
Air Pollution Control Division	Mike Silverstein Kirsten King	Mike.Silverstein@state.co.us Kirsten.king@state.co.us
Office of the Attorney General	Jerry Goad, Attorney for the Commission Thomas Roan, Attorney for the Division	Jerry.Goad@state.co.us Tom.Roan@state.co.us
North Front Range Metropolitan Planning Organization	Suzette Mallette	smallette@nfrmpo.org
Regional Air Quality Council	Kenneth Lloyd	klloyd@raqc.org
Anadarko Petroleum Corporation, Nobel Energy, Inc. Whiting Oil and Gas Corporation, and Williams Production RMT Company	John R. Jacus Todd A. Weaver Abby J. Gaffney Davis Graham & Stubbs LLP	John.jacus@dgsllaw.com Todd.weaver@dgsllaw.com Abby.gaffney@dgsllaw.com
Colorado Ethanol Group, including: ERAS, Inc.; Pacific Ethanol, Inc.; Sterling Ethanol LLC; and Yuma Ethanol LLC	Richard L. Griffith	ricklgrif@aol.com Other E-mails: Patty.stulp@eras2.com traphael@pacificethanol.net dave.kramer@sterlingethanol.com
Colorado Mining Association	Ted Orf Dianna L. Orf Orf & Orf, P.C.	law@orfco.net
Colorado Oil & Gas Association	Kenneth A. Wonstolen Benjamin Vetter Fulbright & Jaworski LLP Meg Collins	kwonstolen@fulbright.com bvetter@fulbright.com meg.collins@coga.org

Colorado Petroleum Association	Stan Dempsey, Jr.	Stan@coloradopetroleumassociation.org
Denver Regional Council of Governments	Steve Cook	scook@drcog.org
DCP Midstream, LP	Jeffrey W. Schwarz Carver Schwarz McNab & Bailey, LLC	jschwarz@cksmb.com
EnCana Oil & Gas (USA) Inc.	Colin G. Harris Holme Roberts & Owen LLP Diane M. Blieszner - Encana Oil & Gas (USA) Inc.	Colin.harris@hro.com Diane.blieszner@encana.com
El Paso Western Pipelines, consisting of: Colorado Interstate Gas Company; El Paso Natural Gas Company; Wyoming Interstate Company, Ltd.; Cheyenne Plains Gas Pipeline Company, L.L.C.; and Mojave Pipeline Company; all of which are subsidiaries of The El Paso Corporation	Daniel J. Schnee	Daniel.schnee@elpaso.com
Environmental Defense Fund, Rocky Mountain Office	Kevin Lynch	klynch@edf.org
Environmental Systems Products, Inc.	Allan L. Hale Amanda A. Bradley Matthew W. Spengler Hale Friesen, LLP	ahale@halefriesen.com abradley@halefriesen.com mspengler@halefriesen.com
Local Government Coalition, representing: Denver Environmental Health; Boulder County Public Health; City of Aspen; and City of Boulder	Pamela H. Milmoie Boulder County Public Health Gregg Thomas Sabrina M. Williams Denver Environmental Health	pmilmoie@bouldercounty.org gregg.thomas@denvergov.org Sabrina.williams@denvergov.org
for Public Service Company of Colorado d/b/a Xcel Energy	Linda L. Rockwood Eric J. Triplett Faegre & Benson, LLP Lauren C. Buehler	lrockwood@faegre.com etriplett@faegre.com Lauren.c.buehler@xcelenergy.com
WildEarth Guardians	Jeremy Nichols	jnichols@wildearthguardians.org

