

US EPA ARCHIVE DOCUMENT

**Citizens for Clean Air and Water in Pueblo/Southern Colorado  
Colorado Environmental Coalition  
Environment Colorado  
Environmental Defense  
League of Conservation Voters Education Fund  
Sierra Club  
Western Resource Advocates**

November 3, 2003

Douglas Benevento  
Executive Director  
Colorado Department of Public Health and the Environment  
4300 Cherry Creek Drive, South  
Denver, CO 80246

Robert E. Brady, Jr.  
Chair  
Colorado Air Quality Control Commission  
4300 Cherry Creek Drive, South  
Denver, CO 80246

Dear Messrs. Benevento and Brady:

The undersigned organizations are writing to express our deep concerns about the unhealthy ozone (“smog”) levels monitored across the Front Range this past summer. Air quality monitors recorded the highest ozone pollution levels in a generation. In addition to the record-high pollution levels, there were numerous days throughout the Summer when the air was unhealthy. The Rocky Flats monitor, for example, exceeded the health-based ozone standard on 15 days. The monitor at NREL exceeded the ozone public health standard on 12 days. The Denver metropolitan area collectively recorded pollution levels above the public health standard a staggering 50 times this summer.

And the unhealthy pollution levels are far-reaching. This past summer Rocky Mountain National Park recorded pollution concentrations above the ozone health standard on seven days. Indeed, Rocky Mountain National Park could violate the health-based national ozone standard next summer. Even our most revered places are no longer safe havens from harmful air pollution.

The unhealthy ozone levels across the Front Range put thousands of children, the elderly and those who enjoy Colorado’s great outdoors at risk. According to the Colorado Department of Public Health and the Environment, Colorado has the second highest estimated prevalence of asthma of any state in the nation with an estimated 7.1 percent of the population believed to have the disease. Further, the Health Department indicates that the children of Colorado appear to be the hardest hit age group. The American Lung Association estimates that in Colorado there are thousands of children and individuals with respiratory illnesses at risk from the harmful effects of ozone.

The U.S. Environmental Protection Agency (EPA) strengthened the ozone standard to improve protection of public health. Specifically, EPA found that the new standard would protect children and other vulnerable populations against decreased lung function, respiratory ailments, hospital admissions and emergency room visits for respiratory causes, inflammation of the lungs, and possible long-term lung damage. 62 Fed. Reg. 38,856 (July 18, 1997). EPA's 1997 decision to tighten the ozone standard was based on a rigorous assessment of epidemiological and clinical studies demonstrating adverse health effects at pollution concentrations that currently exist in many communities across the country.

Since 1997, the public health imperative for the standard has only become stronger as further scientific investigation has documented the adverse health effects of ozone. Post-1997 studies have linked ozone with increased risk of asthma in children (The Lancet, 2002; JAMA, 2001), school absences resulting from sore throat, coughs, asthma attacks (Epidemiology, 2001; Inhalation Toxicology, 2000), decreased lung function in girls with asthma (Am. J. Respir. Crit. Care Med., 1999), and long-term lung damage in children (Am. J. Respir. Crit. Care Med., 1999).

Despite the public health imperative for lowering harmful ozone concentrations, a number of impending policy decisions threaten to lead our community in the wrong direction in tackling these pressing public health problems:

- ❖ Local industry is spurring the Colorado Air Quality Control Commission to adopt the Bush administration's suite of rollbacks to the Clean Air Act's new source review program without any meaningful analysis of the air pollution impacts including the increases in ozone-forming pollutants; and
- ❖ The Regional Air Quality Council and Colorado Air Quality Control Commission are poised to accept inadequate air quality modeling that will provide an unsupportable foundation for determining the clean air measures that are necessary to protect public health.

### **Rising Air Pollution Levels in the Offing**

The brisk population growth in Colorado is inexorably leading to expanded vehicles miles traveled. In 2000, the state had a population of 4,335,540. This is projected to grow to 5,137,928 by 2010, a rise of 18 percent. Likewise, the Denver/Boulder metropolitan area will face 15 percent growth, from 2,415,042 in 2000 to 2,826,036 by 2010. Accordingly, the vehicle miles traveled will experience a sharp rise, from 58.5 million miles traveled in 2001 to an estimated 70.7 million miles traveled in 2010. Vehicle emissions and miles traveled must be a significant focus of any emission reduction policy as the state continues to grow.

At the same time, industrial air pollution is slated to rise. On September 25<sup>th</sup>, Xcel Energy, the dominant supplier of energy for Colorado consumers, notified the Public Utility Commission that over the next decade an estimated 1,600 megawatts of new electric resources will be needed to meet growing electricity demands in its service territory. As part of the notification, Xcel announced plans to evaluate a new 500 to 750 megawatt conventional coal-fired power plant that would discharge thousands of tons of smog-forming air pollutants annually. Overall, preliminary analysis submitted to the Commission by Xcel suggests that company is considering meeting roughly 85% of its

new resource needs with coal or gas-fired power plants. Such plants will further stress an already overburdened airshed.

### **Clean Air Act Rollbacks**

And, a coalition of industrial facilities along the Front Range is pushing the Colorado Air Quality Control Commission to adopt the Bush administration's rollbacks to the Clean Air Act's new source review program. These exemptions, which have been widely criticized by leading policymakers, the U.S. General Accounting Office, the national association of state and local air program directors, and more than a dozen attorneys general, will allow existing industrial sources of ozone pollution, including both VOCs and NOx, to dramatically increase their pollution levels. For example, the Denver area ozone emissions inventory indicates that the Coors Brewing Company, electric generating units, and area refineries are among the highest industrial polluters of smog-forming emissions. Adopting exemptions to bedrock Clean Air Act protections will only allow air pollution from these sources to rise.

It is seriously premature and misguided for Colorado to be adopting rollbacks to clean air protections when we need to be strengthening and improving our public health safeguards. Indeed, the U.S. General Accounting Office pointedly criticized EPA for the lack of information underlying the adoption of its Clean Air Act exemptions. In August 2003, the GAO found that EPA relied on anecdotal information provided by major air polluters to justify its rollbacks because the Agency lacked more comprehensive data.

Further, an April 2003 report by the National Academy of Public Administration, an organization chartered by Congress to provide nonpartisan public policy analysis, recommended that EPA's efforts to reform the Clean Air Act's new source review program "should ensure that NSR provides enhanced protection of health and the environment and should carefully avoid creating even broader loopholes or more exemptions from NSR's requirements." So independent, credible sources indicate that the basis for EPA's claimed impacts of the Clean Air Act exemptions is specious and that we should be strengthening not weakening the protections under the new source review program.

And the public health concerns associated with these exemptions are not limited to ozone. We are also concerned about the associated impacts on PM<sub>10</sub> emissions in the region. The PM<sub>10</sub> maintenance plan incorporates reasonable stationary source growth assumptions based on the existing NSR program. Because the maintenance demonstration reaches a high of 148.8  $\mu\text{g}/\text{m}^3$  in 2015, the stationary source pollution increases that will likely result from a relaxation of the NSR program could lead to actual emissions in excess of the projections in the maintenance plan and exceedances of the health-based PM<sub>10</sub> standard. Should Colorado proceed with these rollbacks, the modeled projections in the maintenance plan must be re-analyzed to factor in this relaxation. This analysis should be done in order to ensure that vital public health protections are not compromised.

In sum, adopting these severe rollbacks will only lead our community in the opposite direction we need to be heading because it will allow air pollution increases from industrial facilities precisely at a time when we need to be adopting air pollution decreases. It is simply misguided public policy to weaken clean air protections in the wake of the most harmful air pollution concentrations in a generation.

### **Air Quality Modeling Inadequacies and the Need to Remedy Ozone Early Action Compact Deficiencies**

While we vigorously believe that swift action must be taken to respond to the unhealthy ozone levels across the Front Range, we are concerned that the Early Action Compact policy the state is pursuing may not lead to healthy air unless protective measures are adopted. There are several factors that are contributing to this dynamic:

- ❖ By its terms, the early action compact excludes nonattainment new source review and transportation conformity, two clean air programs that are pivotal in a briskly expanding area like Denver;
- ❖ The air quality modeling conducted to date is inadequate and fails to meet basic performance parameters; and
- ❖ The increased air pollution from the new electric generation that will be part of Xcel Energy's plans to meet its 1,600 MW resource need, rapidly rising and unchecked VMT, and the existing industrial smokestacks to be exempted from long-standing Clean Air Act protections may not be adequately addressed in any ozone attainment demonstration.

We seek both swift and lasting, durable solutions to this pressing public health problem. While we strongly share a commitment to achieving cleaner air faster, an Early Action Compact that fails to adopt rigorous pollution control measures, is based on a weak technical foundation and is accompanied with new pollution loopholes will not meet the basic tests of sound clean air policy.

### **Recommendations**

We respectfully request the following course of action to protect public health and the environment from harmful airborne contaminants:

- ❖ The Colorado Air Quality Control Commission Subcommittee considering amendments to Regulation 3 postpone further action until the state undertakes a thorough, rigorous analysis to evaluate the impact of adopting EPA's new source review exemptions on Colorado's air quality. And that any further activity in this process be expanded to fully consider alternative approaches to the new source review exemptions adopted by EPA including those recently recommended by STAPPA/ALAPCO.
- ❖ That the state promptly invest additional resources in the Early Action Compact process to improve the adequacy of the air quality modeling.
- ❖ That the ozone abatement control measures adopted as part of the Early Action Compact be expressly enhanced and expanded to compensate for the substantial uncertainty in the performance of the air quality modeling, to address potential changes to Regulation 3 and to account for briskly rising VMT, in order to ensure adequate protection of public health and the environment.
- ❖ That a joint study meeting of the Colorado Air Quality Control Commission and the Colorado Public Utilities Commission be convened to investigate the air quality implications of regulated utilities' growth plans and to ensure that the full public health and environmental costs of increased air pollution from electrical generation are thoroughly evaluated and considered.

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Thousands of children across the Front Range are afflicted with asthma. The health of these children and other individuals with asthma and respiratory ailments is at risk due to pervasive ozone pollution. According to the nation's leading medical journal, it is imperative that we immediately find meaningful, effective and lasting solutions to lower these harmful pollution levels:

“Of the many triggers of asthma . . . air pollution is one of the few that can be regulated. Therefore, policy makers and regulatory agencies . . . have an important responsibility in ensuring that greater efforts are made to clean the air by reducing the emissions that lead to ozone formation.”

Journal of American Medical Association (Oct. 8, 2003). We respectfully request your leadership in addressing this pressing public health problem. We welcome the opportunity to work together to find swift, lasting solutions.

Sincerely,

Margaret M. Barber  
President  
Citizens for Clean Air and Water in  
Pueblo/Southern Colorado

Elise Jones  
Executive Director  
Colorado Environmental Coalition

Matt Baker  
Executive Director  
Environment Colorado

Vickie Patton  
Senior Attorney  
Environmental Defense, Rocky Mountain Office

Carrie Doyle  
League of Conservation Voters Education Fund

Deb Robison  
Southwest Regional Representative  
Sierra Club

John Nielsen  
Energy Project Director  
Western Resource Advocates

Cc: Douglas Lempke  
Ken Lloyd  
Casey Shpall  
Tony Trumbly  
Dick Long