

STATE OF COLORADO

A-2000-51
IV-D-10

Bill Owens, Governor
Jane E. Norton, Executive Director

COLORADO AIR QUALITY CONTROL COMMISSION
<http://www.cdphe.state.co.us>

4300 Cherry Creek Drive South
OED-OLRA-A5
Denver, Colorado 80246-1530
Phone (303) 692-3100
Fax (303) 691-7702
TDD (303) 691-7700



**Colorado
Department
of Public Health
and Environment**

July 3, 2002

Jeffery R. Holmstead
Assistant Administrator
U.S. Environmental Protection Agency
6101 A Ariel Rios Federal Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460



Re: Colorado Comments on Proposed Revisions to the Regional Haze Rule – SO2
Annex
Docket Number A-2000-51

Dear Assistant Administrator Holmstead:

The Colorado Air Quality Control Commission (Commission) has been evaluating the options open to Colorado to comply with the regional haze rule over the course of the past two and one-half years. The Commission has followed the progress of the development of the Western Regional Air Partnership's SO2 Annex, EPA's proposal to adopt the Annex as an addition to the regional haze rule, and most recently the D.C. Circuit Court ruling in American Corn Growers Association v. Environmental Protection Agency. The Commission was on the verge of making a recommendation to Colorado leadership regarding the 308 or 309 debate at the time of the court ruling, but now must take a step back to evaluate the impacts of the court's ruling on the regional haze program.

The Colorado Air Quality Control Commission is a g-member citizen board appointed by the Governor and confirmed by the Colorado Senate to make statewide SIP and regulatory decisions. It is also a first level adjudicatory body for permit and enforcement appeals.

The Colorado Air Quality Control Commission believes that EPA should also take a step back and provide western states with additional time to select between the Section 308 and Section 309 options to comply with the Regional Haze Rule. This choice has been very controversial in Colorado and we believe that we need to continue with our process to evaluate the available options to improve visibility in Colorado Class I areas. Therefore, the Colorado Air Quality Control Commission requests that EPA

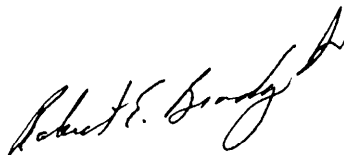
extend the deadline to file plans under Section 309 by the amount of time it takes EPA to resolve the remanded portions of the rule. Without such an extension of time to file plans under Section 309 our ability to evaluate and choose a path and effectively implement the program is severely constrained.

The Commission appreciates that EPA believes the court ruling upheld the overall structure of the regional haze rule and that there are no impediments to states moving forward with the implementation of Section 309 as expressed in Ms. Lydia Wegman's letter of June 7, 2002. However, we believe it is necessary for EPA to provide states and other interested parties with a more detailed explanation regarding why the court's decision does not impact the ability of western states to move ahead with implementation of the Annex and the Section 309 provisions of the Regional Haze Rule. Without this analysis, it is difficult for the Commission to make a recommendation on the viability of this option for Colorado.

The Commission also understands that EPA has indicated it will continue to accept and consider comments on the effect of the court decision and its impact on the regional haze rules after the July 5, 2002 deadline for making comments on the Annex. The Commission believes that there will undoubtedly be ongoing discussion on this topic. The Commission and/or the State of Colorado may submit further comments on this issue on its own or in conjunction with other western states, as the issues continue to develop.

The Colorado Air Quality Control Commission appreciates the opportunity to offer the above comments and also appreciates your attention to air quality issues in Colorado. Should you have any questions or need additional information please contact me at 303-277-2196 or our Commission Administrator, Doug Lempke at 303-692-3478.

Sincerely,



Robert E. Brady, Jr.
Chair,
Colorado Air Quality Control Commission

CC: Colorado Air Quality Control Commissioners
Doug Benevento, CDPHE
Cynthia Honssinger, CDPHE
Margie Perkins, CDPHE
Richard Long, U.S. EPA, Region VIII