

**Comments of the Colorado Chamber of Commerce on Defend Colorado's
Petition for Expedited Hearing and Declaratory Order**

Before the Colorado Air Quality Control Commission

March 21, 2019

Crabe
Chairman ~~Butler~~, Commissioners, Administrator Oeth, Director Kaufman:

My name is John Jacus, and I am an environmental lawyer with Davis Graham & Stubbs here in Denver. I am making public comment in my capacity as Chair of the Energy & Environment Policy Council of the Colorado Chamber of Commerce.

The Chamber appreciates this opportunity to provide the Commission with brief public comments on the recent Petition for Expedited Hearing and Request for Declaratory Order of Defend Colorado (the Petition). More specifically, the Chamber wishes to comment on the propriety of the Colorado Air Pollution Control Division analyzing the best available data concerning whether international emissions of air pollutants and "exceptional events" emissions should be excluded from monitoring data for the Denver Metro and North Front Range ozone nonattainment area when evaluating the area's possible attainment/nonattainment status, as expressly provided for under the federal Clean Air Act and its implementing regulations. The Chamber's members strongly feel that such data should be evaluated by the Division and excluded from attainment/nonattainment evaluations by EPA, just as they are for other nonattainment areas of the country, on appropriate facts and when adequately demonstrated. The Chamber takes no position and makes no comment at this time on other aspects of the Petition.

The Colorado Chamber of Commerce represents hundreds of businesses of all sizes across our state, over 35 local chambers of commerce, as well as numerous trade associations & economic

development organizations. The Chamber's many members operating in the nonattainment area are directly affected by the looming prospect of serious ozone nonattainment re-designation as early as next January, which would greatly impact air permitting and enforcement, as well as air quality planning for the ozone nonattainment area, as you well know.

The Chamber's members are particularly concerned that the Division has been directed to discontinue its prior work on a CAA Section 179B(b) demonstration for possible submission to EPA. Modern air quality planning, permitting and compliance is an incredibly technical and complex endeavor, and the Chamber supports the Division, the Regional Air Quality Council and this Commission being able to evaluate and consider all available data and statutory options for protecting and improving air quality in a manner that also promotes the "productive capacity" of our nation, and where the benefits of control measures bear a reasonable relationship to the economic, environmental and energy impacts of those measures (citations omitted).

We also wish to note for your consideration that the General Assembly has expressly recognized in the Colorado Air Pollution Prevention and Control Act that "a current and accurate inventory of actual emissions of air pollutants from all sources is essential for the proper identification and designation of attainment and nonattainment areas, the determination of the most cost-effective regulatory strategy to reduce pollution, the targeting of regulatory efforts to achieve the greatest health and environmental benefits, and the achievement of a federally approved clean air program." C.R.S. Sect. 25-7-102. The Chamber's members respectfully question how this legislative declaration can possibly be satisfied if the Division is or has been directed to not consider, evaluate or estimate significant emissions from international sources and exceptional events that are contributing to ozone nonattainment in the DMNFR, whether such evaluation results in a change in nonattainment status or not.

The Chamber wishes to reiterate its strong commitment to protecting air quality and the health and welfare of Colorado's citizens, while also promoting a healthy business climate. The Chamber has supported the Division's past funding requests at the Legislature, including just last session, and is working closely with the Division in the related stakeholder process. The Chamber has also participated in recent SIP rulemakings and comments frequently on air quality and other environmental regulatory matters of concern to its members and their involved employees, many of whom are environmental professionals who live and work in the DMNFR.

Finally, a CAA Section 179B(b) submission by the State allowing the DMNFR to remain in moderate nonattainment of the ozone standards does not mean the Chamber, its members, this Commission, the RAQC or the Division would slow down or stop their collective efforts to make progress toward attainment of the standards - far from it. That important work is ongoing and the Chamber's involved members are committed to its success, crafting tailored and effective control measures that allow us to meet federal standards while also balancing the costs and benefits of those measures.

The Chamber, through its Energy & Environment Policy Council, thanks you for this opportunity to submit brief comments on this aspect of the Petition. I'd be happy to answer any questions the Commissioners may have regarding these comments.