



To: Will Allison, Division Director, Colorado Air Pollution Control Division  
Ken Lloyd, Executive Director, Regional Air Quality Council  
John Clouse, Chair, Colorado Air Quality Control Commission

CC: Martha Rudolf, Director of Environmental Programs, CDPHE  
Chris Colclasure, Deputy Division Director, Colorado Air Pollution Control Division  
Dena Wojtach, Regulatory Compliance Support Unit Supervisor, CDPHE  
Mike Silverstein, Administrator and Technical Secretary, AQCC

DATE: July 12, 2016

RE: Request to Delay the Notice of Rulemaking Hearing Regarding the Pending State Implementation Plan Revision Proposal Package under the Moderate “Bump Up” Nonattainment Reclassification for the Denver Metro – North Front Range Region under the 2008 Ozone NAAQS

The Colorado Association of Commerce & Industry, known as CACI, is Colorado’s State Chamber of Commerce, representing hundreds of businesses of all sizes across our state, over 35 local chambers of commerce, as well as numerous trade associations, local chambers of commerce, and economic development organizations. Among CACI’s membership are major operators in Colorado’s energy sector, operators in numerous heavy industries, major manufacturers including aerospace manufacturing, and many members whose businesses and operations include or depend upon at least some type of industrial or manufacturing component. Accordingly, the proposed Ozone Moderate Bump-Up Nonattainment Area State Implementation Plan revision package (SIP revision proposal) is a concern for CACI’s members to the extent that some elements of the current SIP revision proposal make air quality compliance less certain, more burdensome, and in certain instances, may be unnecessary to meet SIP requirements.

CACI herein requests that the Colorado Air Pollution Control Division (APCD), in coordination with the Regional Air Quality Council (RAQC) and the Colorado Air Quality Control Commission (AQCC), move to delay – until the August meeting of the AQCC, at the earliest – the consideration or approval of the notice of rulemaking hearing required to initiate the formal administrative process for considering the Nonattainment Area Bump-Up SIP revisions. CACI’s membership is aware of the impact that such a delay would have on the administrative timeline and ultimate rulemaking hearing date. Yet CACI strongly believes that any slight inconvenience of a delay would be heavily outweighed by the benefits that a delayed process would yield to all parties, administrative, industry, or otherwise.

The requested delay would provide the APCD and RAQC the opportunity to engage in informed dialogue with CACI and its impacted membership, as well as other vested parties, in order to consider and address key concerns regarding the current SIP revision proposal. It is reasonable to address and resolve certain issues informally in order to reduce the number of technical and or contested issues - and the amount of time, energy, and resources they demand – during the formal rulemaking process. Furthermore, because many interested parties just became aware of the new additions to the SIP revision proposal only two weeks ago, critical elements of the proposal have not been subjected to the APCD’s normal stakeholder processes that seek to anticipate, identify, and resolve drafting and other technical language-related issues. Consequently, the entirety of the proposal not yet been able to benefit from or incorporate the expertise of

the regulated community by way of informed feedback based on the operational experience and compliance efforts of actual operators.

The delay CACI requests would allow for this informal dialogue and exchange of views prior to the time of formal rulemaking. Resolving such a wide range of detailed issues before public notice can reduce the cost and resource allocations of interested parties, the Division, RAQC and AQCC, and would promote a less contentious and protracted hearing.

CACI's concerns include, but are not limited to, the following substantive, technical, and procedural issues:

- Regulation No. 7, Section XVI.D., Combustion Process Adjustments:
  - The specific areas of concern that require further discussion between the Division and affected major sources include the applicability threshold of 1 ton/year of uncontrolled NO<sub>x</sub> emissions, the inclusion of duct burners as specific source types, organization and clarity of the actual requirements for combustion process adjustments, initial compliance date of January 1, 2017, and the associated monitoring, record keeping and reporting requirements of the proposed rule;
- Regulation No. 7, Section X.E., Industrial Solvent Cleaning Operations:
  - The draft Industrial Solvent Cleaning rule does not conform to the 2006 Control Techniques Guideline (CTG), because it fails to exclude aerospace cleaning operations which should instead be subject to an Aerospace VOC control rule, which is not presently part of Regulation 7. The Aerospace CTG has completely different solvent vapor pressure limits, housekeeping, and cleaning exclusions than the general Industrial Solvent Cleaning CTG. Also, the draft exclusion for facilities subject to a NESHAP is ineffective for smaller aerospace operations that are not major HAP sources, and thus are not subject to the Aerospace NESHAP;
- Regulation No. 7, Section XII.H
  - CACI is aware that the Division has received comprehensive comments on the proposed monitoring, recordkeeping and reporting requirements for natural gas dehydrators, to which the Division has not yet responded. The articulated concerns ranged from the current and future effect permit mandated and enforceable Operating and Maintenance Plans for dehydrators to specific rule language designed to reconcile and harmonize the proposed requirements with currently enforceable requirements applicable to dehydrators.
- Incorporation of existing permitted emissions limits into the SIP revision proposal:
  - CACI holds strong concerns regarding any proposal that seeks to memorialize in the SIP (and as a matter of federal law) unit specific emissions limits set forth in permits issued by the State of Colorado pursuant to EPA delegated authority under the federal Clean Air Act. Properly implemented delegated state air permitting programs are intended to flexibly regulate emitting operations that can and do change over time. Codifying permitted unit specific emissions limits into federal law via a SIP revision process will significantly restrict, if not effectively eliminate, the ability of the Division and businesses to flexibly respond to constantly evolving economic and business conditions. Proceeding as the Division proposes is a significant shift in the nonattainment area that is unnecessary to support the attainment designation, and may become precedent for putting more sources' permit limits in future SIPs.

- SIP requirements are very difficult to amend over time:
  - CACI believes that additional collaboration between the administrative and industry parties is critical to ensuring that any and all SIP revisions adopted via this process seek to balance Colorado's shared goals of responsible and compliant industry operations and ongoing economic activity and development. In recognizing that SIP provisions are very difficult to amend once adopted (a process that can take many years), CACI believes that all vested stakeholders must work together to advance SIP revisions that avoid the creation of long lasting requirements that unduly suppress or limit industry operations, result in costly compliance burdens for the regulated community, or damage Colorado's economy or prospects future economic growth.

CACI strongly believes that this advance collaboration will generate an initial SIP revision proposal that more accurately reflects the balanced priorities shared by Colorado's Air Pollution Control Division and its regulated community. Noticing a SIP revision proposal that incorporates substantive input from the regulated community aimed at addressing the above concerns will ultimately save both administrative and industry parties substantial amounts of time, money, and resources that would have otherwise been required to identify, review, and respond to each of the listed concerns via formal submissions, party statements and rebuttals, and alternate proposals within the context of the rulemaking process.

For these reasons, CACI respectfully urges the APCD, in coordination with the RAQC and AQCC, to delay initiating the administrative rulemaking process for the 2008 Ozone Nonattainment Area Bump-Up SIP revisions until the August meeting of the AQCC, at the earliest.

For more information regarding CACI or this CACI statement, please contact CACI Air Quality Committee Chair and Air Permitting Manager at Encana Services Company, Ltd., Adam Berig, at [adam.berig@encana.com](mailto:adam.berig@encana.com) or 720-876-3884; or CACI Director of Governmental Affairs, Daniel O'Connell, at [doconnell@cochamber.com](mailto:doconnell@cochamber.com) or 303-866-9622.