

STATE OF COLORADO

EXECUTIVE CHAMBERS

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Bill Owens
Governor

December 9, 1999

The Honorable Russ George
Speaker of the House of Representatives
The Colorado General Assembly
State Capitol
Denver, CO 80203

Dear Speaker George:

RE: Annual Regional Haze Report

Pursuant to C.R.S. 25-7-137 please find the enclosed report regarding regional haze. The purpose of the report is to update the General Assembly on the activities of the Colorado Department of Public Health and Environment (CDPHE) with respect to the above topic.

Should you have any questions please feel free to contact myself or CDPHE.

Sincerely,

Bill Owens

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Introduction

This annual report is provided to the Colorado General Assembly as an update by the Colorado Department of Public Health and Environment (CDPHE) and its Air Pollution Control Division (APCD) regarding regional haze and the Western Regional Air Partnership process. This report is intended to meet the requirements of C.R.S. 25-7-137.

Background

C Description of Regional Haze and Clean Air Act Amendments Regarding Visibility in Class I Areas

Visibility in Colorado's Class I areas (i.e., national parks and wilderness areas in existence as of 1977) is among the best in the country. Our prized vistas exist due to unique combinations of topography and scenic features and because the air in much of the State contains low humidity and minimal levels of visibility-degrading pollutants. However, research shows that visual air quality in the rural West has experienced a significant decline due to air pollution emissions from manmade sources. The cause of this decline in visual air quality is referred to as regional haze". On hazy days, when visibility is reduced, the human eye perceives a loss of color, contrast, and detail in the landscape.

In 1977, Congress set a national goal for the nation's Class I areas of remedying existing visibility impairment, and preventing future impairment, from manmade air pollution. The 1990 Federal Clean Air Act directed EPA to develop regional haze rules aimed at widespread haze from a multitude of sources (such as mobile sources, burning activities, and industrial activities) that impairs visibility over large areas. Congress also directed EPA to establish the Grand Canyon Visibility Transport Commission (GCVTC) in response to a request from the western states that they be given the opportunity to determine how best to address haze in the West. Congress was convinced that western states should be given a chance to

form a western regional collaboration and devise a solution that would more fully consider the unique needs of the West rather than being subject to a one-size-fits-all national strategy for regional haze.

C *The Grand Canyon Visibility Transport Commission*

EPA established the GCVTC on November 13, 1991 to provide policy recommendations to EPA for addressing regional haze visibility impacts in sixteen Class I areas on the Colorado Plateau, including six of the twelve Class I areas in Colorado¹. The GCVTC states (including Colorado, Nevada, Arizona, Utah, Idaho, New Mexico, Oregon, Wyoming, and California) worked within a stakeholder process for over four years and issued recommendations in June 1996. Generally, the recommendations are conceptual and directional suggestions that reflect broad-based, multi-stakeholder agreements regarding approaches for mitigating regional haze in the West. It was recognized that additional regional collaboration would be necessary to create potentially implementable programs. The GCVTC had no regulatory authority but Congress did direct EPA to consider the work done by the western states as EPA went forward with the development of a national regional haze rule.

The primary recommendations of the GCVTC are in the following areas:

Air Pollution Prevention

Clean Air Corridors

Stationary Sources

Areas In And Near Parks

¹ Colorado's twelve Class I areas include: Mt. Zirkel Wilderness, Rawah Wilderness, Rocky Mountain National Park, Flat Tops Wilderness, Eagles Nest Wilderness, Maroon Bells-Snowmass Wilderness, West Elk Wilderness, Black Canyon of the Gunnison Wilderness, La Garita Wilderness, Weminuche Wilderness, Great Sand Dunes Wilderness, and Mesa Verde National Park. The six underlined areas are those addressed by the GCVTC.

Mobile Sources

Road Dust

Emissions from Mexico

Fire

Future Regional Coordinating Entity

Additional information and copies of the GCVTCs final report are available by contacting the Air Pollution Control Division or via the internet (www.wrapair.org in the reports section).

Western Regional Air Partnership (WRAP) the GCVTC Successor Organization

Recognizing the need for a process to monitor and coordinate the implementation of its recommendations, the GCVTC voted to create the WRAP. The WRAP was formed in July 1997. The WRAP is an advisory body designed to provide coordination and planning for regional haze programs within a setting of broad stakeholder involvement. The WRAP has no regulatory authority. Individual states, through their legislatures and rulemaking bodies, will have to decide ultimately what is incorporated into state implementation plans (SIPs). More about the organization of the WRAP (e.g., bylaws, charter, structure) is available by contacting the Air Pollution Control Division, or via the internet (www.wrapair.org in the charter/bylaws section).

Colorado House Bill 97-1324 (C.R.S. 25-7-137)

This 1997 law affirms Colorado's sovereignty in addressing the State's interests in regional haze and encourages the State to examine all options for implementation of the regional haze rule through a broad based stakeholder process. No final recommendation or other action of the WRAP may impose new or different requirements upon the regulated community or citizens of Colorado unless approved or enacted by the Colorado General Assembly acting by bill. The law

also requires a stakeholder process and an annual report on the activities of the GCVTC and/or WRAP to the General Assembly.

EPA's Regional Haze Rule

Draft Rule

The draft rule was released by EPA on July 31, 1997 for a ninety-day comment period. The draft rule did not explicitly incorporate GCVTC recommendations as a specific option for western states. On June 29, 1998, the Western Governors Association (WGA) sent to EPA a proposal with specific new language to help EPA translate the GCVTCs broad recommendations into specific terms that would create an option for western states to submit SIPs following the GCVTCs framework. In response, on September 3, 1998 EPA published a notice asking for comment on WGAs proposed language.

Final Rule and Activities During 1999

Following the comment period regarding the WGA proposal, EPA completed an Interagency Review Draft of the Regional Haze Rule on February 1, 1999. This draft was intended for internal review among federal agencies, including the Office of Management and Budget (OMB). Due to the internet's capability for easy distribution, copies of this draft became available to the public by mid-February. This draft contained a specific option for GCVTC states, known as section 309, and EPA also added a requirement that this option address Best Available Retrofit Technology (BART) for certain stationary sources.

Numerous stakeholder groups from Colorado made trips to Washington, D.C. to discuss with OMB various additional changes to the draft rule for both sections 308 (the national rule option) and 309 (the GCVTC option). A CDPHE representative met with OMB in Spring 1999 and stressed the need for flexibility in both the GCVTC option and in the national rule option so that states could craft programs

that were not overly prescriptive and could fit local circumstances. During this same time, a group of stakeholders, organized by WGA, worked on drafting clarifying language in the GCVTC option part of the rule for EPA's consideration. Also, Governor Owens of Colorado, Governor Gerring of Wyoming, and Governor Guinn of Nevada all wrote individual letters to the EPA, expressing concern that the draft rule ignored the recommendations of the GCVTC. The EPA signed the final rule on April 22, 1999 and it was published in the Federal Register on July 1, 1999. A copy of the rule is available on the internet (www.epa.gov/airlinks/) or by contacting the Air Pollution Control Division.

Recent Activities of the WRAP

The GCVTC recommendations call for developing a plan to establish stationary source emission targets and a plan for allocating tradable credits under the emissions cap prior to EPA finalizing the regional haze rule so that it could be incorporated into the rule. The WRAP organized the Market Trading Forum (MTF)² and tasked it with developing this plan, submitting it for public comment, revising as necessary, and then submitting it for formal approval by the WRAP. The EPA's regional haze rule calls for completing this "Annex" by October 1, 2000. Assuming EPA finds the Annex acceptable, the emission targets it contains would then become part of the section 309 option.

The WRAP's and MTF's current schedule is to have the basic agreements in place in November 1999 and to conduct a public comment process over the winter. The proposal may need to be adjusted based on public comment and then the WRAP will review and approve it for submittal to EPA by October 1st. Once EPA

² Many of the GCVTC's recommendations require additional data or stakeholder discussion before they can be implemented. Forums are the major tool for stakeholder participation, gathering and reviewing of data, and the development of detailed tactics and action plans. Additional information on WRAP forums, and about the MTF, is available from the Air Pollution Control Division or the internet (www.wrapair.org in the charter/bylaws section under Guidelines for Committees and Forums and in the section on forums).

approves the Annex and includes it in 309 it is not binding upon a state unless they choose that option and amend their SIP.

In recent weeks, the MTF has been meeting frequently on the various elements of the Annex package. Tentative agreements have been made on the endpoint for SO₂ emissions in 2018 of 540,000 tons, as well as the slope of the line between 2003 and 2018, and on allocations of credits under the line. At the most recent WRAP meeting Colorado requested that when the slope of the line is finalized that the WRAP reflect what the line would look like with Colorado participating in the regional process and also show what the line would look like without Colorado's participation in the regional process. Additional information on recent MTF activities is available by contacting the Air Pollution Control Division.

Colorado's Choices

The State has chosen to be an observer at the MTF meetings in order to maintain the option of going with the 309 program. Colorado has chosen its observer status due to limited resources and the need to redirect resources toward exploration of the 308 option in order to ensure a full range of choices remain open to the Legislature. Stakeholder input on the development of a 308 exploration plan was initiated with a meeting on October 19th. The purpose is develop a sufficiently complete picture of the 308 program as it would apply to Colorado so that an informed decision can be made between 308 and the WRAP 309 program. This choice will need to be made in the fall of 2000 so that there is sufficient time to create a 309 SIP to meet EPA's deadline for submittal by the end of 2003. If the choice is to do a 308 SIP then the submittal is estimated to be due to EPA between 2005-2006. The decision as to which option to take will necessitate both input from the Colorado Legislature as well as other interested stakeholders. Further, there will need to be stakeholder input on implementation of either option.

Stakeholder Activities

The Department's ongoing stakeholder activities have included face-to-face meetings with industry, members of the legislature, environmental interests, and others. Recent meetings include the discussion about regional haze with Legislative Council and CDPHE's director of Office of Policy and Public/Private Initiatives, Pat Teegarden, and the October 19th stakeholder discussion about section 308.

What's Next?

The Department has continued to pursue both the GCVTC (i.e., section 309) and general alternative (i.e., section 308) so that an informed decision can be made. In order to stay involved and informed CDPHE staff will continue to monitor WRAP and MTF activities with respect to the development of the Annex and other important activities (e.g., emission inventories, modeling tools, etc.). The CDPHE has also established a Colorado work group to investigate how best to address the requirements of the Regional Haze Rule without using the GCVTC recommendations. The primary goals for both of these processes are 1) determine the best alternative to maintain State sovereignty; 2) establish the most flexible alternative for Colorado; and 3) maintain as many options for the State to choose from as possible. The Department is strongly committed to working with the Colorado General Assembly, our stakeholders, and rule making bodies to develop a strategic direction that will result in an environmentally effective and cost effective approach for protecting visibility in Colorado's spectacular landscapes.