STATE OF COLORADO

OFFICE OF THE GOVERNOR
136 State Capitol Building
Denver, Colorado 80203
(303) 866 - 2471
(303) 866 - 2003 fax

Bill Ritter, Jr.
Governor

B 002 09

EXECUTIVE ORDER

Recreating and Reauthorizing the Denver Metropolitan Area Regional Air Quality Council

Pursuant to the authority vested in the Office of the Governor of the State of Colorado and, in particular, pursuant to Article IV, section 2 of the Colorado Constitution, I, Bill Ritter, Jr., Governor of the State of Colorado, hereby issue this Executive Order authorizing the Regional Air Quality Council as the lead air quality planning agency for the Denver Metropolitan Area.

1. Background and Purpose

Quality of life in Colorado is closely tied to environmental quality, including air quality. While Colorado has made considerable progress in addressing air quality issues, we face new challenges associated with population growth and tightening environmental standards. Communities in the Denver Metropolitan Area and the North Front Range continue to experience elevated ambient concentrations of ozone that pose risks to human health, especially to children and other vulnerable populations. Reducing regional haze is an ongoing effort, while reducing levels of nitrogen deposition in Rocky Mountain National Park and meeting the greenhouse gas reduction goals established in Executive Order D 004 08 present new challenges.

To accomplish the goals of meeting tighter ozone standards, reducing regional haze, reducing nitrogen deposition within Rocky Mountain National Park, and meeting Colorado's greenhouse gas reduction goal, we must adopt measures to reduce emissions of ozone precursors from stationary sources, the transportation sector, and other sources. Doing so requires evaluation of emissions sources, atmospheric fate and dispersion, and technically and economically feasible emissions reduction measures available for stationary sources and the transportation sector. In addition, these efforts require close coordination between the Colorado Department of Public Health and Environment ("CDPHE"), the Colorado Department of Transportation ("CDOT"), and the many local governments and transportation planning regions affected.

The Governor of the State of Colorado, pursuant to the federal Clean Air Act, 42 U.S.C. § 7504, is authorized to designate a lead agency for air quality planning with the responsibility to prepare air quality plans for the region to demonstrate and ensure long-

term compliance with federal air quality standards. The Regional Air Quality Council ("Council") has been an important actor in the development of strategies to improve air quality and coordinate air quality planning initiatives for the greater Denver Metropolitan Area. This Executive Order recreates, reauthorizes and directs the Council to engage in a coordinated process with CDPHE, CDOT, and local government and transportation agencies to develop and report on the options to further reduce emissions from vehicles, reduce vehicle miles traveled and other measures that yield emission reductions from the transportation sector. In addition, the Executive Order directs the Council to continue with their ongoing duty to develop and propose revisions to the State Implementation Plan in compliance with the requirements of the Clean Air Act.

2. Council Designated

The Regional Air Quality Council ("Council") is the hereby designated as the lead air quality planning agency for the Denver metropolitan area in its status as a non-profit Colorado corporation. The Council shall perform only those duties and functions specifically designated in this Executive Order.

3. Roles and Coordination with Other Entities

A. Role of the Council

The Council has proved to be an important component in the State of Colorado's development of strategies to improve air quality and coordinate air quality planning initiatives for the greater Denver Metropolitan Area. The Council recently completed action, in conjunction with the North Front Range Transportation and Air Quality Planning Council, on a set of measures designed to bring the Front Range Ozone Nonattainment Area into compliance with the 0.08 parts per million 8-hour National Ambient Air Quality Standard for ozone.

It is likely that even with the measures recently proposed by the Council to attain the 0.08 ppm ozone standard, the Denver and North Front Range areas will be unable to demonstrate attainment of the 0.075 ppm standard unless the State of Colorado adopts additional measures to reduce emissions of ozone precursors from stationary sources, the transportation sector, and from other source categories. Additional emission reductions will be required of stationary sources under the requirements of the regional haze program and the plan to reduce nitrogen deposition in Rocky Mountain National Park. CDPHE will lead and coordinate the development of the emission reduction strategies for stationary sources that will work to improve ambient ozone concentrations, regional haze and decrease nitrogen deposition at Rocky Mountain National Park. However, further emission reductions may be needed from the transportation sector to bring the area into compliance with the latest federal ozone standard and to ensure progress toward accomplishment of the Colorado Climate Action Plan's goals.

Denver metropolitan and North Front Range local governments, the State of Colorado, businesses, and others will need to find ways to reduce emissions from the transportation sector that may include reductions in emissions from vehicles, reductions in vehicle miles traveled, or adoption of other measures that yield emissions reductions from this sector. Developing options that may be considered will require innovation, creativity, and collaboration among a wide variety of entities. The Council will make an excellent host for focusing these discussions.

Focusing on transportation related air quality issues will require broad coordination among many levels of government, working with the private sector. In particular, an investigation of whether feasible and acceptable strategies exist to address emissions from the transportation sector will require close and thoughtful coordination with the Denver Regional Council of Governments, which has significant experience and expertise in land use planning and transportation planning. The North Front Range Transportation and Air Quality Planning Council will be an integral partner in these discussions, and ultimately the Pikes Peak Area Council of Governments and the city and county of Pueblo will need to be consulted, since any strategies that ultimately might be recommended in the Denver and North Front range area must consider the polices being pursued by those other local governments. The Council shall lead the discussions of transportation related air quality issues and provide for the broad coordination and opportunity for public involvement that is necessary to address the issue.

B. Role of CDPHE

The Department of Public Health and Environment shall play a lead role, in coordination with Council staff, in technical matters such as developing emissions inventories, conducting air dispersion modeling, and evaluating potential emissions reduction strategies.

4. Mission and Duties

A. The Council shall serve as the lead planning agency for air quality that forwards to the Air Quality Control Commission proposed amendments to the state implementation plan to address attainment and maintenance requirements for the metropolitan area under the Clean Air Act.

B. CDPHE, in coordination with Council staff, shall have the lead responsibility for developing air quality assessments and air quality improvement strategies and shall address the development of ozone management strategies, to the extent possible, in a fashion coordinated with the development of related air quality strategies to address issues such as regional haze and nitrogen deposition in Rocky Mountain National Park.

C. The Council shall work with CDPHE and appropriate agencies in evaluating and developing strategies for completing required amendments to the state implementation plan.

D. The Council shall, in coordination with CDPHE, receive regular briefings on the status of air quality in the metropolitan area as well as plans to reduce emissions and to improve air quality.

E. The Council, in coordination with CDOT, shall convene discussions with the Denver Regional Council of Governments, the North Front Range Transportation and Air Quality Planning Council, affected municipal and county governments, transit agencies and others, as appropriate. These discussion shall form part of the broad coordination effort to identify and discuss strategies that might be available to reduce aggregate emissions of ozone precursors and greenhouse gases from the transportation sector in anticipation that emissions reductions may be required from this sector to demonstrate attainment of the 0.075 ppm ozone standard, or any revisions that may occur to it, as well as the Colorado Climate Action Plan. The Council shall seek out information and briefings from local governments and other organizations from the region, the State and the country to identify and discuss strategies that have been successfully adopted and implemented or strategies that are being studied, in the event that such strategies may be applicable in Colorado.

F. The Council shall report to the Office of the Governor its plan for the coordination of discussions regarding the identification of emission reduction strategy options for the transportation sector prior to conducting such discussions and shall report to the Office of the Governor on the results once the effort is complete.

G. The Council shall be responsible for developing and administering public education and outreach programs regarding air quality and air pollution prevention and control in the Denver metropolitan area. Council material shall include discussions of the public health and environmental benefits as well as the cost effectiveness of providing good air quality in the region.

H. The Council shall serve as an education resource on regional air quality issues to the elected city and county officials in the Denver metropolitan area and shall provide support to the North Front Range Transportation & Air Quality Planning Council as appropriate.

I. The Council may participate in rulemaking proceedings where appropriate and consistent with the rules and procedures of the regulatory body involved in the proceeding.

J. The Council shall continue its ongoing efforts to reduce vehicle tailpipe emissions through the Repair Your Air Campaign and diesel retrofit programs.

5. Structure and Powers

A. The Council shall adopt its own by-laws, consistent with the terms of this executive order. The Council shall adopt a meeting schedule that facilitates its work. The Council shall keep a record of its proceedings, which shall be open to public inspections. No final policy decision or formal action and no action approving contract calling for payment of money shall be adopted or approved at any executive session. The council shall conduct its meetings pursuant to the Colorado Sunshine Law, C.R.S. §§ 24-6-401, 24-6-402.

B. The Council may operate in adjunct subcommittees, working groups, or such other arrangements as may be useful for efficient and effective functioning. However, all final policy actions must be approved by the Council as a whole.

C. The Council shall rely on CDPHE as its primary source of technical expertise, but may, upon a simple majority vote, contract with other agencies or vendors for additional technical data to assist in achieving its air quality planning mission.

D. The Council shall have the power to retain a staff and hire consultants as appropriate; enter into contracts; receive and expend funds; purchase goods and services; lease space; and perform all necessary management and administrative functions.

E. A simple majority vote of the Council is sufficient to determine the recruitment, hiring, termination and evaluation of the staff and consultants of the Council.

F. A quorum shall consist of a majority of the Council members.

6. Membership and Organization

The Council shall consist of no fewer than twenty-one members to be appointed as follows:

A. No fewer than 6 representatives of local governments in the Denver metropolitan region;

B. At least 1 representative of the following:

1. Denver Regional Council of Governments;
2. local government representative from the North Front Range Metropolitan Area

3. representative of entities that are or have stationary sources;
4. representative of automotive-related businesses;
5. representative of the region's transportation management agencies
6. representative of the general business community
7. individual with transit expertise;
8. member of the public with appropriate transportation experience;
9. member of the public with appropriate land use planning experience;
10. member of the public to represent the conservation community;
11. member of the public to represent the broad public interest;
12. a citizen at large.

C. The Executive Directors of the following departments: CDPHE, CDOT, and the Department of Local Affairs. Each Executive Director may designate an alternate to serve in his place. Said alternates may vote on issues before the Council.

D. The Governor shall appoint one member of the Council to serve as chair of the Council.

E. Appointees shall serve at the pleasure of the Governor

7. Directive

This Executive order shall supersede all preceding Executive Orders pertaining to the Metropolitan Air Quality Planning Council and the Regional Air Quality Council.

8. Duration

This Executive Order shall continue in existence until April 30, 2011, unless it is either terminated or extended beyond that date by Executive Order of the Governor.

GIVEN under my hand and the Executive Seal of the State of Colorado, this 25th day of March, 2009.

Bill Ritter, Jr.
Governor