



May 3, 2024

KC Becker  
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Submitted via email: Becker.KC@epa.gov

**Re: *Resubmittal of SIP Revisions following Reconsideration***  
***EPA Docket Nos.: EPA-R08-OAR-2022-0632; EPA-R08-OAR-2022-0857; and***  
***FRL-10362-02-R8***

On May 9, 2023, the United States Environmental Protection Agency (“EPA”) finalized a limited disapproval of regulations the State of Colorado submitted to address Clean Air Act (“CAA”) requirements for the 2008 8-hour ozone National Ambient Air Quality Standards (“NAAQS”). Air Plan Approval, Conditional Approval, Limited Approval and Limited Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 89 Fed. Reg. 29,827 (May 9, 2023) (hereinafter “Limited Disapproval”). EPA’s Limited Disapproval of portions of Colorado’s State Implementation Plan (“SIP”) was tailored to reflect EPA’s concerns regarding the sufficiency of the applicable reporting requirements. *Id.*

On July 10, 2023,<sup>1</sup> Colorado filed a Petition for Reconsideration (“Petition”) respectfully asking EPA to reconsider the Limited Disapproval. As noted in the Petition, Colorado supports and values transparency and public access to information regarding a source’s compliance with the State’s regulations. Colorado’s request for reconsideration was largely based on Colorado’s concerns that it was not provided adequate process to fully explain how the State’s regulations work together to provide for transparency and enforceable SIP provisions.

Colorado also wanted the opportunity to update EPA on the various actions taken by the Air Pollution Control Division (“Division”) over the last year to further enhance access to public records and information, including:

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<sup>1</sup> Colorado subsequently filed an Amended Petition on August 3, 2023, with EPA.



- Launching a [new interactive online map](#) that provides access to thousands of air quality records for stationary sources of air pollution. Records include permits, exceedance reports, inspection reports, and completed enforcement actions. This new mapping tool is possible thanks to the Colorado Department of Public Health and Environment’s (“CDPHE”) online database launched in October 2020, which currently houses more than 550,000 air quality records. The new map integrates with the Division’s existing [public database](#) and provides an alternative, visual way to find records.
- Launching a [new online data visualization tool](#) that makes trends and information on key air pollutants more accessible to the public. The tool shows data that stationary sources of air pollution must report to the State as part of Colorado’s Air Pollutant Emission Notice (“APEN”) requirements. Community input and stakeholder feedback helped the Division develop the new tool.
- The Division audits their web pages to ensure they meet State digital accessibility requirements and translating key web pages into Spanish to advance Colorado’s ongoing commitment to language justice.
- Implementing a multi-year project updating the Division’s stationary source data system. This work involves streamlining processes and digitizing public records so everyone, including local communities, can easily find and access air quality records online. The new data system will support a variety of Division activities including: permitting, inventory, inspections, compliance and enforcement, billing, reporting, and monitoring division progress and performance of 2,500 companies and 14,000 facilities.
- Piloting new electronic permit submissions to increase efficiency for permittees and the Division’s permit engineers. This work will continue as the Division further digitizes and streamlines existing systems and processes.
- Continually [enhancing and updating the Division’s records website](#) with how-to guides, video tutorials, and quick links to public records of high interest.
- Hiring staff dedicated specifically to the Division’s ongoing data modernization effort and additional records management experts to help further increase access to public records.

- Creating queries so that the public can search records by record types instead of having to scroll through many documents to locate a specific record. These queries are for stationary source APENs, enforcement documents, inspection reports, permitting, and source submitted reports.

On August 31, 2023, EPA granted Colorado's Petition.<sup>2</sup> Colorado is grateful for the time and opportunity EPA has granted the State throughout the reconsideration process. Colorado is pleased to submit this letter to highlight additional steps the State plans to undertake to improve the ability of members of the public to access critical compliance information and to better explain how Colorado's regulations work to collect information from sources on a periodic basis and make this information available to the public.

The purpose of this letter is to resubmit the SIP revisions that were the subject of the Limited Disapproval and to provide EPA with the requisite commitment and information necessary for EPA to propose conditional approval and/or full approval of these regulations. Specifically, Colorado will:

1. Adopt into its SIP additional reporting provisions related to metal parts and metal products coatings, wood products coatings, combustion equipment at major sources, and foam manufacturing;
2. Further explain and clarify the existing publicly available information concerning storage tank emission controls, storage tank and wet seal centrifugal compressor control device testing, and consumer products and AIM coatings; and
3. Further explain and clarify Colorado's APEN requirements.

Colorado intends to propose the SIP revisions described herein no later than August 2024, for a rulemaking hearing anticipated to be held in December 2024. Following Colorado's statutorily required legislative review process, which will take place during the 2025 legislative session, Colorado will promptly submit the revisions to EPA.

It is Colorado's position that SIP provisions that direct that records be provided upon request are not inherently insufficient under the CAA. Colorado, among many other states, has EPA-approved regulations that require reporting "upon request" to provide additional and specific regulatory support for broad statutory authority to request records. See, e.g., 42 U.S.C. § 7414; § 25-7-111, C.R.S.

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<sup>2</sup> Letter from KC Becker, EPA Regional Administrator, to Philip J. Weiser, Attorney General of the State of Colorado (Aug. 31, 2023) (Attachment 1).

In evaluating what additional revisions might be appropriate to address EPA's stated concerns, Colorado focused on three concepts to ensure public access to information about compliance with SIP emission limits: (1) the frequency of reporting; (2) the content of the information reported; and (3) public access to the reported information. More specifically: (1) does the SIP require sources to report information related to compliance on a periodic basis; (2) does the information reported include sufficient content such that a member of the public is able to evaluate whether or not the source is in compliance with applicable SIP emission limits; and (3) can a member of the public obtain the requisite information? Colorado requests approval of the resubmitted SIP revisions based on the information submitted in the Petition, during the reconsideration process, and as set forth below.

#### **I. Additional SIP Revisions Colorado is Committing to Propose, Once Adopted, and Submit to EPA Following Statutorily Required Legislative Review**

The effect of the SIP revisions Colorado will immediately undertake to propose will be that the SIP will include reporting that contains sufficient information to enable a member of the public to evaluate a source's compliance with the emission limits in the SIP for the source categories covered by the Limited Disapproval. Upon proposal of conditional approval by EPA, Colorado intends to promptly commence engagement with communities and other affected stakeholders to develop regulatory language to advance through the rulemaking process. Therefore, Colorado is not providing any proposed regulatory redlines to EPA at this time. Colorado's rulemaking process is robust, and providing regulatory redlines at this time could hamper Colorado's ability to seek and receive meaningful feedback during this stakeholder process.

#### **A. Metal Parts and Product Rules**

Concerning the Metal Parts and Products regulations,<sup>3</sup> Colorado understands that EPA's concern is that a member of the public may not be able to sufficiently evaluate whether a source is using products compliant with the volatile organic compounds ("VOC") content limits. This regulation applies to both major and minor sources and subject sources must submit an APEN at least every five years providing, among other things, the products used. While there are statutory and regulatory guardrails around the minimum emissions information that must be reported, the statute and regulation do not explicitly require the identification of specific products used. The APEN forms, however, require subject sources to list the most commonly used products with sufficient specificity to enable the public to find the VOC content for those products.<sup>4</sup> These APENs are publicly available through the [Division's Public Records Portal](#) and other mechanisms discussed above. Colorado's understanding is

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<sup>3</sup> In the Limited Disapproval, the reporting provisions are found in Regulation 7, Part C., Section I.L.5. (Due to reorganization, this rule is now found in Regulation 25, Part B., Section I.L.5.).

<sup>4</sup> This information provides the public with information to assist in an evaluation of the subject source's compliance with emission limits, i.e. the VOC content limits.

that EPA is concerned that the list might not be comprehensive and that a change in products used might not trigger the submittal of a revised APEN under the provisions of Colorado's SIP.

In response to EPA's concern, Colorado plans to incorporate additional emission limit reporting requirements into the SIP for this source category. Colorado plans to propose for adoption an annual reporting requirement of the VOC content of the subject products used during the previous year. This will make it easier for the public to find information regarding the source's compliance with the SIP emission limits. Additionally, for sources required to have a renewable operating permit (i.e., Title V sources), the revisions proposed will have the impact of requiring each source to report information on the VOC content of products used on a semi-annual basis along with other Title V required semi-annual reporting. The information provided in these additional reporting requirements will be readily available to the public through the Division's Public Records Portal and other mechanisms discussed above.

## **B. Wood Products Coating Rules**

Concerning the Wood Products Coating regulations,<sup>5</sup> Colorado understands that EPA has a similar concern as to the Metal Parts and Products Rules, i.e., that a member of the public may not be able to sufficiently evaluate whether a source is using products compliant with the VOC content limits (the SIP emission limits). These rules are applicable to wood coating operations only at major stationary sources of VOC emissions. Thus, under state and federal law, these sources have mandatory periodic reporting of certain information, such as deviations from emission limits. Akin to metal coating operations, sources must submit an APEN at least every five years reporting, among other things, the products used. These APENs are publicly available through the Division's Public Records Portal and other mechanisms described above.

In response to EPA's concern, Colorado plans to incorporate additional emission limit reporting requirements into the SIP for this source category. Along with the Title V semi-annual reporting, Colorado will require reporting of the VOC content of the subject products used during the reporting timeframe. This will make it easier for the public to find information regarding the source's compliance with the SIP emission limits. The information provided in these additional reporting requirements will be readily available to the public through the Division's Public Records Portal and other mechanisms discussed above.

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<sup>5</sup> In the Limited Disapproval, the reporting provisions are found in Regulation 7, Part C., Section I.O. (Due to reorganization, this rule is now found in Regulation 25, Part I.O.).

### **C. Combustion Equipment Rules**

Concerning the Combustion Equipment regulations,<sup>6</sup> Colorado understands that EPA's concern is that a member of the public may not be able to evaluate compliance with applicable emissions limits, particularly with respect to sources not also subject to continuous emissions monitoring or performance testing requirements. This regulation is applicable only to major stationary sources of emissions of oxides of nitrogen. Thus, under state and federal law, these sources have mandatory periodic reporting of certain information, such as deviations from emission limits. Most of the subject combustion equipment is also subject to either continuous emissions monitoring or performance testing requirements, with corresponding reporting of excess emissions and performance testing. The SIP contains reporting to enable a member of the public to evaluate compliance with these requirements. These reports are publicly available through the Division's Public Records Portal and other mechanisms described above.

To address EPA's concern, Colorado plans to incorporate additional reporting requirements into the SIP for this source category to further support the ability of the public to evaluate compliance with the SIP's emission limits. As a result of these SIP revisions, subject sources will be required to submit further information regarding their compliance with SIP emission limits. The information provided in these additional reporting requirements will be readily available to the public through the Division's Public Records Portal and other mechanisms discussed above.

### **D. Foam Manufacturing Rules**

Concerning the Foam Manufacturing regulations,<sup>7</sup> Colorado understands that EPA is concerned that a member of the public may not be able to sufficiently evaluate a source's compliance with applicable emission limits. These rules are applicable to foam manufacturing operations only at major stationary sources of VOC emissions. Thus, under state and federal law, these sources have mandatory periodic reporting of certain information, including deviations from emission limits such as pounds of VOC per material used. Colorado's SIP requires that the subject foam manufacturing operations must conduct performance tests on the emission control equipment. Colorado's Common Provisions performance testing regulations, as approved by EPA in 2016, require that sources submit test reports to the Division within 30 days of the performance test. These reports are publicly available through the Division's Public Records Portal and other mechanisms discussed above.

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<sup>6</sup> In the Limited Disapproval, the reporting requirements are found in Regulation 7, Part E., Section II. (Due to reorganization, this rule is now found at Regulation 26, Part B., Section II.).

<sup>7</sup> In the Limited Disapproval, the reporting requirements are found in Regulation 7, Part E., Section V. (Due to reorganization, this rule is now found at Regulation 26, Part B., Section V.).

In response to EPA's concern, Colorado plans to incorporate additional reporting requirements into the SIP for this source category, along with the sources' Title V semi-annual reporting, to further support the ability of the public to evaluate compliance with the SIP's emission limits, including the specific pounds per material limit. The information provided in these additional reporting requirements will be readily available to the public through the Division's Public Records Portal and other mechanisms discussed above.

## **II. Additional Information Colorado Provided to EPA Through the Reconsideration Process**

For the other SIP revisions resubmitted herewith and not addressed above, Colorado is requesting that EPA approve the provisions, taking into account the additional information provided herein.

As set forth in Colorado's Petition and summarized below, Colorado's EPA-approved program contains existing reporting requirements that ensure information to assess whether a source is in compliance with its SIP emission limits is available to the public on a periodic basis.

### **A. Inspections of and Performance Testing for Storage Tanks and Centrifugal Compressors**

Concerning the requirements for inspections of and performance testing for storage tanks and centrifugal compressors,<sup>8</sup> Colorado understands that EPA is concerned that a member of the public may not be able to evaluate a source's compliance with the SIP emission limits (here, the combustion efficiency requirements for storage tank controls) or enclosed combustion device ("ECD") testing requirements for ECDs used to control emissions from certain storage tanks or centrifugal compressors. This regulation applies to both major and minor sources.

In response to EPA's concern, Colorado provides further narrative explaining how members of the public can obtain information on a periodic basis with the relevant content in order to evaluate compliance with the storage tank emission limits, such as the annual storage tank reports, and any ECD testing as related to the specified tanks or compressors, such as the New Source Performance Standards ("NSPS") performance test requirements that were explicitly incorporated by reference into these sections of Colorado's SIP.

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<sup>8</sup> In the Limited Disapproval, these sections are in Regulation 7, Part D., Sections I.E. and I.J. and previously as Regulation 7, Sections XII.E. and XII.J (Due to reorganization, these sections are now found at Regulation 7, Part B., Section I.E. and Regulation 7, Part B, Section I.J.).

Colorado notes that on December 19, 2019, the State's system-wide control strategy for storage tanks was replaced with a fixed-threshold storage tank control strategy achieving equivalent or better emission reductions. Accordingly, the reporting applicable to the system-wide control strategy has been repealed.

**1. Existing Requirements in Rule Ensuring Information Necessary to Determine Compliance with SIP Emission Limits is Reported on a Periodic Basis and Available to the Public**

Owners or operators of storage tanks in Colorado's ozone nonattainment area are required to conduct weekly inspections for proper operation, maintain the records of these inspections, and submit an annual report with information sufficient to demonstrate and determine compliance with the 95% VOC emission control strategy. This reporting must include a list of all storage tanks controlled pursuant to this rule, the monthly VOC emissions and emission factor, and the control efficiency for air pollution control equipment for each storage tank. In addition to the annual storage tank reports, owners or operators must also submit APENs at least every five years for storage tanks with uncontrolled actual VOC emissions equal to or greater than one ton per year. The Division makes available a condensate storage tank APEN (Form 205) and a crude oil storage tank APEN (Form 210). Pursuant to the criteria set forth in statute and the SIP-approved APEN regulations, owners or operators report, among other information, actual annual emissions and control device control efficiency. As with other reports submitted to the Division, these annual reports and APENs are available to the public. Therefore, reported information sufficient for a member of the public to evaluate a storage tank's compliance with the storage tank control strategy is submitted to the Division on a periodic basis and made publicly available.

Owners or operators of storage vessels with the potential for VOC emissions equal to or greater than six tons per year, which equates to approximately 120 tons per year of VOC on an uncontrolled basis, must also conduct performance testing of the control device used to reduce emissions at least every five years. Similarly, combustion devices used to reduce VOC emissions from wet seal fluid degassing systems on wet seal centrifugal compressors must also be tested at least every five years. These requirements correspond to the recommendations in EPA's 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry ("Oil and Gas CTG"). Colorado is not aware of any wet seal centrifugal compressors operating at locations between the wellhead and the point of custody transfer to the natural gas transmission and storage segment in Colorado's ozone nonattainment area. Moreover, due to Colorado's much lower applicability threshold of uncontrolled actual emissions of VOC equal to or greater than two tons per year, few, if any, storage vessels in Colorado will be subject to this performance testing requirement.



For any storage vessels and wet seal centrifugal compressors that are subject to the requirements listed above, the federal testing requirements Colorado incorporated by reference into the SIP include periodic reporting requirements.<sup>9</sup> 40 C.F.R. § 60.5413a includes the following provisions regarding direct reporting (emphasis added).

Section 60.5413a(b)(5)(i)-(ii):

(i) You must conduct an initial performance test within 180 days after initial startup for your affected facility. You must submit the performance test results as required in § 60.5420a(b)(9); (ii) You must conduct periodic performance tests for all control devices required to conduct initial performance tests except as specified in paragraphs (b)(5)(ii)(A) and (B) of this section. You must conduct the first periodic performance test no later than 60 months after the initial performance test required in paragraph (b)(5)(i) of this section. You must conduct subsequent periodic performance tests at intervals no longer than 60 months following the previous periodic performance test or whenever you desire to establish a new operating limit. You must submit the periodic performance test results as specified in § 60.5420a(b)(9).

Section 60.5420a(b)(9):

Within 60 days after the date of completing each performance test (see § 60.8) required by this subpart, except testing conducted by the manufacturer as specified in § 60.5413a(d), you must submit the results of the performance test following the procedure specified in either paragraph (b)(9)(i) or (ii) of this section.

Section 60.5413a(d)(12):

The owner or operator of a combustion control device model tested under this paragraph (d)(12) must submit the information listed in paragraphs (d)(12)(i) through (vi) of this section for each test run in the test report required by this section in accordance with § 60.5420a(b)(10).

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<sup>9</sup> See Regulation 7, Part B, Sections I.E.3. and I.J.1.h. (citing to the federal testing requirements incorporated by reference into Colorado's SIP).

Section 60.5420a(b)(10):

For combustion control devices tested by the manufacturer in accordance with § 60.5413a(d), an electronic copy of the performance test results required by § 60.5413a(d) shall be submitted via email to Oil\_and\_Gas\_PT@EPA.GOV unless the test results for that model of combustion control device are posted at the following website: [epa.gov/airquality/oilandgas/](http://epa.gov/airquality/oilandgas/).

Section 60.5413a(e)-(e)(1):

Continuous compliance for combustion control devices tested by the manufacturer in accordance with paragraph (d) of this section. This paragraph (e) applies to the demonstration of compliance for a combustion control device tested under the provisions in paragraph (d) of this section. Owners or operators must demonstrate that a control device achieves the performance criteria in paragraph (d)(11) of this section by installing a device tested under paragraph (d) of this section, complying with the criteria specified in paragraphs (e)(1) through (8) of this section, maintaining the records specified in § 60.5420a(c)(2) or (c)(5)(vi) and submitting the report specified in § 60.5420a(b)(10). (1) The inlet gas flow rate must be equal to or less than the maximum specified by the manufacturer.

Therefore, under the provisions in EPA's NSPS OOOOa incorporated into (and enforceable through) the SIP and applicable to any existing or new storage vessel or wet seal centrifugal compressor subject to the rule, the rule requires owners or operators to submit performance test reports on a periodic basis. These reports support the ability of the public to assess whether a source is complying with its SIP emission limits. For these reasons, Colorado asks EPA to approve these provisions without further regulatory revision.

**B. Consumer Products and Architectural and Industrial Coatings Rules**

Concerning Regulation Number 21 (Consumer Products and Architectural and Industrial ("AIM") Coatings Rules), Colorado understands EPA is concerned that a member of the public may not be able to sufficiently evaluate a product's compliance with the applicable VOC content limit.

In response to EPA's concern, Colorado provides further narrative discussion explaining how members of the public can obtain information to assess compliance with product VOC content limits through publicly available means such as product labels, manufacturer website, safety data sheets ("SDS"), or product testing.

## **1. Existing Requirements and Practices Ensuring Information Necessary to Determine Compliance with SIP Emission Limits is Reported on a Periodic Basis and Available to the Public**

Colorado's Regulation Number 21 applies to any person who sells, supplies, offers for sale, distributes for sale, or manufacturers for sale consumer products in Colorado. Regulation Number 21 also applies to any person who supplies, sells, offers for sale, or manufacturers any architectural or industrial maintenance coating and any person who applies or solicits the application of any architectural or industrial maintenance coating in Colorado. While these requirements apply State-wide in Colorado, for purposes of federal applicability in Colorado's SIP, these requirements are only included in the SIP for sources in Colorado's ozone nonattainment area.

Colorado's Regulation Number 21 was drafted based on the Ozone Transport Commission's model rules, specifically Consumer Products Phase IV and AIM Coatings Phase II, including the container labeling and reporting requirements for consumer products, and container labeling and reporting requirements for AIM coatings.

Concerning AIM coatings, the manufacturer of any architectural or industrial maintenance coating subject to a VOC limit in Regulation 21 must clearly display on the container, among other information, the date the coating was manufactured, and the emission limit (e.g., VOC content in grams per liter of coating). The required product labeling allows members of the public to identify and obtain information about that specific product on a manufacturer's website. The Division understands that manufacturers' websites often make available the VOC content of their products. Furthermore, a member of the public has the ability to have any consumer product or AIM coating tested by an analytical testing and consulting laboratory to verify compliance with an applicable VOC content limit. This information is available to members of the public at any time.

Through product labeling, product information on a manufacturers' website, SDS, and product testing, members of the public can evaluate a product's compliance with the SIP's applicable emission limits. For these reasons, Colorado asks EPA to approve these provisions without further regulatory revision.

## **III. Additional Information and Clarification of Colorado's APEN Program**

Colorado requires that an APEN be submitted to the Division prior to allowing emissions of air pollutants from, or construction, or modification, or alteration of, any facility, process, or activity which constitutes a stationary source.<sup>10</sup> An APEN must specify, among other things, the nature of the facility, process, or activity and an estimate of the annual actual emissions, including emission controls. APENs are required for sources in a nonattainment area with uncontrolled actual emissions of criteria pollutants of one ton per year or more. APENs are valid for no more than five

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<sup>10</sup> See § 25-7-114.1, C.R.S.; Regulation Number 3, Part A., Section II.

years. A revised APEN must be submitted, among other reasons, when a significant change in annual actual emissions occurs, when new control equipment is installed, or when a permit limitation must be modified. APENs are publicly available through the Division's Public Records Portal and other mechanisms discussed above.

Colorado has explained the statutory and regulatory limitations on the CDPHE's ability to modify APEN forms to allow sources to fail to report critical information. Section 25-7-114.1(1), C.R.S., prohibits the emission of air pollutants without the filing of an APEN, and section 25-7-114.1(2), C.R.S., requires revised APENs upon the occurrence of certain events, such as changes in processes or emissions. Further, section 25-7-114.1(4), C.R.S., states that APENs:

. . . must specify the location at which the proposed emission will occur; the name and address of the person operating or owning the facility, process, or activity; the nature of the facility, process, or activity; and an estimate of the quantity and composition of the expected emission. The division shall provide appropriate forms on which the information required by this section must be furnished.

This language is mirrored in EPA-approved Colorado Regulation 3, Part A., Section II.A.1. Moreover, Regulation 3, Part A., contains other EPA-approved regulations specifying the content and basis of information reporting in an APEN.<sup>11</sup>

In EPA's April 25, 2023, Response to Comments regarding the Limited Disapproval, EPA appears to note that while Colorado's APEN program collects the information required to be reported under the disapproved regulations, EPA had concerns about a potential "director's discretion" issue. As EPA described it, because Colorado could change an APEN form for the source categories covered by the Limited Disapproval without going through the SIP revision process, EPA had concerns about whether the regulations subject to the Limited Disapproval had sufficient periodic reporting.<sup>12</sup> Throughout the reconsideration process, Colorado has worked with EPA to clarify and provide additional information to the agency about Colorado's APEN program and sought to understand the scope of EPA's comment on the program. Colorado explained how the statutes and regulations discussed above would bind the APEN program and set minimum criteria for periodic reporting. It is Colorado's understanding that EPA's concern with Colorado's reliance on EPA-approved APEN regulations for reporting requirements was narrowly tailored to the regulations EPA commented on in its Response to Comments and not with the APEN program as a whole. Colorado requests that EPA confirm Colorado's understanding.

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<sup>11</sup> See, e.g., *id.*, Part B., Section II.B.1. (requiring reporting of annual actual emissions, based on actual test data or other approved data); *id.*, Part B., Section II.C. (requiring the filing of revised APENs upon the occurrence of certain triggering events).

<sup>12</sup> EPA, [Response to Comments for the Federal Register Notice on Air Plan Approval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area](#) (Apr. 25, 2023) ("Response to Comments"), at 48.

It is Colorado's understanding that EPA's comments regarding the use of APENs for reporting are adequately addressed by the proposed SIP revisions and additional information Colorado has provided herein (and the information in the Petition and provided during the reconsideration process). Moreover, Colorado understands that EPA agrees that no director's discretion issue exists with Colorado's APEN program on a programmatic level.

As discussed in this letter, Colorado will submit SIP revisions to Regulation Number 25 and Regulation Number 26, to EPA as early as possible in 2025, but no later than May 31, 2025, following adoption by the Air Quality Control Commission at a December 2024 hearing and Colorado's mandatory legislative SIP review process during the 2025 legislative session.<sup>13</sup> Colorado requests that EPA publish a proposed conditional approval and/or approval of the regulations submitted by Colorado on May 14, 2018, May 13, 2020, March 22, 2021, May 18, 2021, and May 20, 2022 that EPA disapproved in its Limited Disapproval, resubmitted herewith.<sup>14</sup>

Colorado again thanks EPA for the robust reconsideration process and looks forward to a continued partnership in pursuing clean air and a healthy environment for Coloradans.

Sincerely,



Trisha Oeth

Director, Environmental Health and Protection  
Colorado Department of Public Health and Environment

cc: Michael Boydston, EPA Region 8 Office of Regional Counsel  
Laura T. Mehew, Colorado Attorney General's Office  
Rylie Slaybaugh, Colorado Attorney General's Office

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<sup>13</sup> See § 25-7-133, C.R.S.

<sup>14</sup> 89 Fed. Reg. at 29,828 (May 9, 2023).