



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Ref: 8ARD-PM

The Honorable Jared Polis
Governor of State of Colorado
State Capitol Building
200 E. Colfax Avenue, Rm. 136
Denver, Colorado 80203

Re: Weld County Remand 120-Day Letter

Dear Governor Polis,

This letter is to notify you of an ozone designation action the U.S. Environmental Protection Agency (EPA) is taking regarding Weld County, Colorado in response to a July 10, 2020 decision by the District of Columbia Circuit Court of Appeals (*Clean Wisconsin v. EPA*, 964 F.3d 1145 (D.C. Cir. 2020)).

On October 1, 2015, the EPA revised both the primary and secondary ozone National Ambient Air Quality Standards (NAAQS) to provide increased protection of public health and the environment. Whenever the EPA establishes a new NAAQS, the Clean Air Act (CAA) requires the EPA to designate all areas of the country as to whether they are meeting or not meeting the NAAQS. On April 30, 2018, the EPA finalized nonattainment area designations for the 2015 Ozone National Ambient Air Quality Standard (NAAQS) and designated the Denver Metro/North Front Range nine-county area as a Marginal nonattainment area for the 2015 standard. The boundaries of the nonattainment area remained the same as recommended by the State of Colorado in 2016, including designating the northern portion of Weld County as Attainment/Unclassifiable.

Multiple petitioners (i.e., several environmental and public health advocacy groups, three local government agencies, and the state of Illinois) filed six petitions for review challenging certain ozone designation that were promulgated on April 30, 2018. In a July 10, 2020 decision, the D.C. Circuit remanded to the EPA, but did not vacate, the designations for 16 of the challenged counties, including Weld County, Colorado.

In response to the remand, the EPA has re-evaluated the designation for Weld County by applying its uniform, nationwide analytical method and interpretation of CAA section 107(d)(1) in considering the specific facts and circumstances for the area using only data available at the time of the original designation. This includes Colorado's September 15, 2016 ozone designation recommendation, which was based on 2014-2016 air quality data. The EPA now intends to designate the entirety of Weld County


nonattainment as part of the Denver Metro/North Front Range nonattainment area. Because the EPA intends to modify the designation recommendation for Weld County, the EPA must conduct a 120-day notification process to provide Colorado the opportunity to demonstrate why any proposed modification is inappropriate. The Technical Support Document for Colorado, which provides a detailed analysis to support our new intended designation decision, is posted on the EPA's Ozone Designations web site at <https://www.epa.gov/ozone-designations>.

If Colorado has additional information that it would like the EPA to consider, please submit it to us by July 26, 2021. In order to remain consistent with the designations across the rest of the country in responding to the court's remand, the EPA will only be considering information that was a part of the existing record for the original final area designations promulgated on April 30, 2018. Please submit additional information by sending it to the EPA's public docket for these designations, EPA-HQ-OAR-2017-0548, located at www.regulations.gov, and by sending a copy to the EPA Region 8, pursuant to the instructions detailed in the forthcoming *Federal Register* action. The EPA will also make its intended designation decision and supporting documentation for Weld County available to the general public for review and comment. We will be announcing a 30-day public comment period shortly in the *Federal Register*. After considering any additional information we may receive, so long as it is confined to the existing record, and responding to significant comments, the EPA plans to issue the final ozone designations in late summer 2021.

The EPA is committed to working with the states and tribes to reduce ozone air pollution. We look forward to a continued dialogue with you and your staff as we work together to implement the 2015 ozone standards. Should you have any questions regarding this matter, please do not hesitate to contact me at 303-312-6298 or thomas.debrah@epa.gov or your staff may contact Carl Daly, EPA Region 8's acting Air and Radiation Division Director, at 303-312-6416 or daly.carl@epa.gov.

Sincerely,

5/25/2021

 Debra H. Thomas

Signed by: DEBRA THOMAS

Debra H. Thomas

Acting Regional Administrator

cc: Shaun McGrath, Director of Environmental Programs, Colorado Department of Public Health and the Environment
Garrison Kaufman, Director, Air Pollution Control Division, Colorado Department of Public Health and the Environment