

Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects**34 CFR Part 614**

Colleges and universities, Grant programs—education.

34 CFR Part 617

Colleges and universities, Grant programs—education.

34 CFR Part 619

Colleges and universities, Grant programs—education.

34 CFR Part 641

Colleges and universities, Grant programs—education, Scholarships and fellowships, Teachers.

Dated: September 30, 1996.

David A. Longanecker,
Assistant Secretary for Postsecondary
Education.

(Catalog of Federal Domestic Assistance numbers do not apply.)

**PARTS 614, 617, 619, AND 641—
[REMOVED]**

For reasons stated in the preamble, under the authority at 20 U.S.C. 1221e-3, the Secretary amends Title 34 of the Code of Federal Regulations by removing Parts 614, 617, 619, and 641.

[FR Doc. 96-25439 Filed 10-3-96; 8:45 am]

BILLING CODE 4000-01-P

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 52**

[CO48-1-7008a & CO-001-0005a; FRL-5607-6]

**Clean Air Act Approval and
Promulgation of PM₁₀ State
Implementation Plan for Colorado;
Telluride; Revisions to the
Maintenance Demonstration**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA approves the State implementation plan (SIP) revisions for Telluride as submitted by the Colorado Governor with a letter dated April 22, 1996. The April 22, 1996 submittal now satisfies the State's April 21, 1994

commitment to adopt additional control measures in Telluride as necessary to demonstrate maintenance of the National Ambient Air Quality Standards (NAAQS) through December 31, 1997, for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀). Based on that commitment, EPA conditionally approved the quantitative milestones element of the Telluride PM₁₀ SIP on September 19, 1994. The April 22, 1996 submittal incorporates new street sanding requirements and demonstrates maintenance of the standard through 1997. EPA approves these revisions, and therefore, converts its September 19, 1994 conditional approval to a full approval.

DATES: This final rule will become effective on December 3, 1996 unless adverse comments are received by November 4, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2405; Colorado Department of Health, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530; and The Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Amy Platt, 8P2-A, Environmental Protection Agency, Region VIII, (303) 312-6449.

SUPPLEMENTARY INFORMATION:**I. Background**

The Telluride, Colorado area was designated nonattainment for PM₁₀ and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.¹ See 56 FR 56694 (Nov. 6, 1991), 40 CFR 81.306 (Telluride). The air quality planning requirements for moderate PM₁₀ nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.²

¹ The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

² Subpart 1 contains provisions applicable to nonattainment areas generally and Subpart 4 contains provisions specifically applicable to PM₁₀ nonattainment areas. At times, Subpart 1 and Subpart 4 overlap or conflict. EPA has attempted to

EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM₁₀ nonattainment area SIP requirements (see generally 57 FR 13498, April 16, 1992 and 57 FR 18070, April 28, 1992). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in this proposal and the supporting rationale.

Those States containing initial moderate PM₁₀ nonattainment areas (those areas designated under section 107(d)(4)(B) of the Act) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) [including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)] shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modelling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM₁₀ also apply to major stationary sources of PM₁₀ precursors except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

On September 19, 1994, EPA partially approved a March 1993 Telluride PM₁₀ SIP submittal, including control measures, technical analyses, and other Clean Air Act SIP requirements, with the exception of the quantitative milestone element (see 59 FR 47807). EPA conditionally approved the quantitative milestones element because the SIP did not demonstrate maintenance of the PM₁₀ NAAQS

clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

through 1997, and therefore, it was deficient in meeting the second quantitative milestone (November 15, 1994 through November 15, 1997).

II. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565-13566). The Governor of Colorado submitted revisions to the SIP for Telluride with a letter dated March 13, 1995. The revisions addressed additional control measures necessary to demonstrate maintenance of the PM₁₀ NAAQS.

The March 13, 1995 submittal inadvertently incorporated an incorrect version of a street sanding regulation, *i.e.*, a version differing from what the State actually adopted. Therefore, the State was required, through its administrative procedures, to re-notice, re-hear, and re-adopt the Telluride SIP in order to correct its error. The result is the April 22, 1996 submittal, which completely replaces the March 13, 1995 submittal. Therefore, this action will be specific to the April 22, 1996 submittal.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan

submitted by a State must be adopted after reasonable notice and public hearing.³ Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action [see Section 110(k)(1) and 57 FR 13565]. The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA within six months after receipt of the submission.

To entertain public comment, the State of Colorado, after providing adequate notice, held a public hearing on August 17, 1995 to address the Telluride PM₁₀ SIP revision. Following the Colorado Air Quality Control Commission (AQCC) public hearing, the AQCC adopted the Telluride PM₁₀ SIP revisions. The Governor of Colorado submitted the Telluride SIP revisions to EPA with a letter dated April 22, 1996.

The SIP revisions were reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51,

appendix V. The submittal was found to be complete and a letter dated July 12, 1996 was forwarded to the Governor indicating the completeness of the submittal and the next steps in the review process.

2. Control Strategy

EPA approved the control measures in the Telluride moderate PM₁₀ nonattainment area SIP as satisfying the RACM (including RACT) requirement on September 19, 1994 (59 FR 47807). The measures targeted wood and coal burning. Please see that notice of final rulemaking and associated Technical Support Document (TSD) for further details on the specific control measures approved in the SIP.

The April 22, 1996 submittal included the addition of a new emission control measure which outlines street sanding requirements. In the Colorado Air Quality Control Commission State Implementation Plan-Specific Regulation for Nonattainment Areas, adopted August 17, 1995 and effective October 30, 1995, section II.C. details street sanding requirements for the Telluride area. Specifications for street sanding include a 2% fines standard for all street sanding materials and requirements for testing and reporting. In the following table, the street sanding controls and associated emissions reductions are outlined.

| Source | Control measure | PM ₁₀ emissions reduction from base year | Effective date |
|--------------------------|---|---|----------------|
| Re-en-trained road dust. | Colorado Air Quality Control Commission State Implementation Plan-Specific Regulation for Nonattainment Areas, Section II.C., Telluride Nonattainment Area Street Sanding Requirements. Requires that all street sanding materials equal or exceed a standard of less than 2% fines. | 32% or 6550 pounds fewer PM ₁₀ emissions/day in 1997. | 10/30/95 |

A more detailed discussion of the street sanding control measures can be found in the TSD. EPA has reviewed the State's documentation and concluded that it adequately justifies the emissions reduction credit used in the State's maintenance demonstration. The implementation of these measures, along with the control measures that were approved in the moderate PM₁₀ nonattainment area SIP for Telluride on September 19, 1994 (59 FR 47807), will result in continued maintenance of the PM₁₀ NAAQS through December 31, 1997. EPA approves this regulation for street sanding requirements as part of

the control strategy for the Telluride PM₁₀ SIP as it is necessary for continued maintenance of the PM₁₀ NAAQS.

3. Emissions Budget

The emissions inventory for the Telluride PM₁₀ nonattainment area was approved by EPA in the September 19, 1994 Federal Register (59 FR 47807). The April 22, 1996 submittal included a paragraph to clearly denote the emissions budgets for the Telluride nonattainment area, which are to be used for Federal conformity purposes. The emissions budgets are determined by subtracting the mobile-source related

emission reduction credits from the 1994 and 1997 mobile source emissions inventories. Since the State does not have mobile-source related emission reduction credits to be applied to the 1994 mobile source emission inventory, the 1994 emissions budget is the same as the 1994 mobile source emissions inventory and remains unchanged from EPA's September 19, 1994 approval at 16,901 lbs. of PM₁₀/day. However, with the addition of the street sanding measure described above and being approved by EPA today, the 1997 budget is now established at 14,687 lbs. of PM₁₀/day.

³ Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

4. Revision to the Maintenance Demonstration (Including Air Quality Modelling)

As noted, the initial moderate PM₁₀ nonattainment areas were required to submit a demonstration (including air quality modelling) showing that the plan will provide for attainment as expeditiously as practicable (see section 189(a)(1)(B) of the Act). The 24-hour PM₁₀ NAAQS is 150 micrograms/cubic meter ($\mu\text{g}/\text{m}^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu\text{g}/\text{m}^3$ is equal to or less than one (see 40 CFR 50.6). The annual PM₁₀ NAAQS is 50 $\mu\text{g}/\text{m}^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu\text{g}/\text{m}^3$ (id.).

EPA approved Colorado's March 17, 1993 attainment demonstration for the Telluride moderate PM₁₀ nonattainment area on September 19, 1994 (59 FR 47807-47813). The 24-hour attainment value (i.e., the ambient PM₁₀ air quality levels achieved by December 31, 1994) was 142.7 $\mu\text{g}/\text{m}^3$. For a more detailed description of that attainment demonstration and the related control strategies, see EPA's September 19, 1994 final rulemaking (59 FR 47807) and the associated TSD.

However, the March 1993 Telluride nonattainment area plan did not show maintenance of the NAAQS through 1997. The 1997 24-hour PM₁₀ concentration was predicted to be 180.1 $\mu\text{g}/\text{m}^3$, which is above the 24-hour NAAQS of 150 $\mu\text{g}/\text{m}^3$. In the April 22, 1996 submittal, the maintenance demonstration was revised to include the emissions reduction credit for the additional control measure involving street sanding requirements.

With the revisions, the 24-hour maintenance value is 135.0 $\mu\text{g}/\text{m}^3$ (45.1 $\mu\text{g}/\text{m}^3$ lower than without the revision and below the PM₁₀ NAAQS). The revised demonstration shows that the control strategies (approved on September 19, 1994 at 59 FR 47807), along with the new street sanding requirements, are adequate to ensure continued maintenance of the 24-hour PM₁₀ NAAQS in Telluride through the maintenance year of 1997.

The SIP now adequately demonstrates continued maintenance of the PM₁₀ NAAQS in Telluride. For a more detailed description of the maintenance demonstration revisions, please see the TSD for this document.

5. Technical Analyses

With the April 22, 1996 submittal, the Governor submitted the emissions inventory and chemical mass balance

analyses that EPA had previously approved in its September 19, 1994 rulemaking action (59 FR 47807). Because EPA previously approved the Telluride emissions inventory and chemical mass balance analyses, EPA is not acting on these elements at this time.

6. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.* (see 57 FR 13541). Nonattainment area plan provisions also must contain a program to provide for enforcement of control measures and other elements in the SIP (see section 110(a)(2)(C)).

The specific control measures contained in this April 22, 1996 revision to the SIP are addressed above in Section II.A.3., "Control Strategy." The Colorado Air Quality Control Commission State Implementation Plan-Specific Regulation for Nonattainment Areas, Section II.C., Telluride Nonattainment Area Street Sanding Requirements, became effective on October 30, 1995. This regulation outlines street sanding requirements for all street sanding materials used in the Telluride nonattainment area and details testing and recordkeeping requirements. All street sanding material used within the Telluride nonattainment area must equal or exceed a standard of less than 2% fines. All materials will be tested to ensure compliance with this standard, and the test results must be provided to the purchaser upon delivery.

By June 1 of each year, beginning in 1997, each user of street sanding materials must prepare and submit a report to the Division which details (1) the total amount of sanding material (both new and recycled) used; (2) the total amount of salt or other de-icing chemicals used; (3) the number of lane miles typically sanded during each deployment; and (4) the total number of deployment episodes. By September 30 of each year, beginning in 1996, each user of street sanding materials must prepare and submit a report to the Division which provides a copy of all independent tests performed and the name and address of all suppliers of street sanding material along with a full description of the location of the supplier's aggregate pit from which all material was supplied.

The State of Colorado has a program that will ensure that the measures contained in the SIP are adequately enforced. The Colorado Air Pollution Control Division (APCD) has the authority to implement and enforce all control measures adopted by the AQCC. In addition, Colorado statute provides that the APCD shall enforce against any "person" who violates the emission control regulations of the AQCC, the requirements of the SIP, or the requirements of any permit. The definition of "person" includes any "municipal corporation, county, city and county or other political subdivision of the State," such as the Town of Telluride and San Miguel County. Civil penalties of up to \$15,000 per day per violation are provided for in the State statute for any person in violation of these requirements, and criminal penalties are also provided for in the State statute.

Thus, EPA believes that the control measures contained in the SIP revision for Telluride are enforceable and that the APCD has adequate enforcement capabilities to ensure compliance with those control measures. The TSD contains further information on enforceability requirements and a discussion of the personnel and funding intended to support effective implementation of the control measures.

III. Final Action

EPA is approving Colorado's SIP revision, submitted by the Governor with a letter dated April 22, 1996, for the Telluride moderate PM₁₀ nonattainment area. This submittal addressed revisions to the maintenance demonstration to incorporate emissions reductions credit for the new street sanding requirements. The SIP now adequately demonstrates continued maintenance of the PM₁₀ NAAQS in Telluride through 1997; therefore, EPA converts its September 19, 1994 conditional approval (59 FR 47807) to a full approval.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 3, 1996 unless, by November 4, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw

the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 3, 1996.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.*

E.P.A., 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 29, 1996.

Patricia D. Hull,

Acting Regional Administrator.

40 CFR Part 52 is amended as follows:

1. The authority citation for part 52 continues to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Authority: 42 U.S.C. 7401-7671q.

2. Section 52.320 is amended by adding paragraph (c)(75) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(75) The Governor of Colorado submitted revisions to the PM₁₀ moderate nonattainment area State Implementation Plan (SIP) for Telluride, Colorado with a letter dated April 22, 1996. The submittal was made to satisfy the State's commitment to adopt additional control measures necessary to demonstrate continued maintenance of the PM₁₀ National Ambient Air Quality Standards through 1997. Due to the satisfaction of this commitment, the SIP now adequately meets the quantitative milestone requirement.

(i) Incorporation by reference.

(A) Colorado Air Quality Control Commission State Implementation Plan-Specific Regulation for Nonattainment Areas, 5 CCR 1001-20, Section II.C., Telluride Nonattainment Area Street Sanding Requirements, adopted August 17, 1995 and effective October 30, 1995.

[FR Doc. 96-25465 Filed 10-3-96; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

RIN 0906-AA40

Grants for Nurse Practitioner and Nurse Midwifery Programs

AGENCY: Health Resources and Services Administration, HHS.