

REGION VIII.—DELEGATION STATUS OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS¹

Subpart	CO	MT	ND ²	SD ²	UT ²	WY
*	*	*	*	*	*	*

* Indicates approval of delegation of subpart to state.

¹ Authorities which may not be delegated include 40 CFR 61.04(b), 61.12(d)(1), 61.13(h)(1)(ii), 61.112(c), 61.164(a)(2), 61.164(a)(3), 61.172(b)(2)(ii)(B), 61.172(b)(2)(ii)(C), 61.174(a)(2), 61.174(a)(3), 61.242–1(c)(2), 61.244, and all authorities listed as not delegable in each subpart under Delegation of Authority.

² Indicates approval of National Emission Standards for Hazardous Air Pollutants as part of the State Implementation Plan (SIP) with the exception of the radionuclide NESHAP subparts B, Q, R, T, W which were approved through section 112(l) of the Clean Air Act.

³ Delegation only for asbestos demolition, renovation, spraying, manufacturing, and fabricating operations, insulating materials, waste disposal for demolition, renovation, spraying, manufacturing and fabricating operations, inactive waste disposal sites for manufacturing and fabricating operations, and operations that convert asbestos-containing waste material into nonasbestos (asbestos-free) material.

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671.

Subpart BB—Montana

2. Add a new and undesignated center heading and § 62.6613 to subpart BB to read as follows:

Fluoride Emissions From Existing Phosphate Fertilizer Plants

§ 62.6613 Identification of plan—negative declaration.

The Montana Department of Environmental Quality certified in a letter dated February 14, 2001, that there are no phosphate fertilizer plants in Montana that meet the definition of affected facility under any of the subparts T, U, V, W or X. Additionally, there are no phosphate fertilizer plants in Montana that meet the definition of affected facility under any of the subparts T, U, V, W, or X, constructed before October 22, 1974, and that have not reconstructed or modified since 1974.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0058a, CO–001–0059a; FRL–6989–3]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Telluride and Pagosa Springs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State

Implementation Plan (SIP) revision submitted by the State of Colorado on May 10, 2000, for the purpose of redesignating the Telluride, Colorado and Pagosa Springs, Colorado areas from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀) under the 1987 standards. The Colorado Air Pollution Control Division's (Colorado) submittal, among other things, documents that the Telluride and Pagosa Springs areas have attained the PM₁₀ national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for each of the areas demonstrating maintenance of the PM₁₀ NAAQS for ten years. EPA is approving these redesignation requests and maintenance plans because Colorado has met the applicable requirements of the Clean Air Act (CAA), as amended. Upon the effective date of this approval, the Telluride and Pagosa Springs areas will be designated attainment for the PM₁₀ NAAQS. This action is being taken under sections 107, 110, and 175A of the Clean Air Act.

DATES: This rule is effective on August 14, 2001 without further notice, unless EPA receives adverse comment by July 16, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center,

Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT:

Megan Williams, EPA, Region VIII, (303) 312–6431.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we,” “us,” or “our” are used, we mean the Environmental Protection Agency (EPA).

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I. EPA's Final Action

What Action Is EPA Taking in this Direct Final Rule?

We are approving the Governor's submittal of May 10, 2000, that requests redesignation for the Telluride and Pagosa Springs nonattainment areas to attainment for the 1987 PM₁₀ standards. Included in Colorado's submittal are changes to the Ambient Air Quality Standards Regulation and State Implementation Plan Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Elements) Regulation (SIP Specific Regulation) which we are approving, under section 110 of the CAA, into

Colorado's SIP. We are also approving the maintenance plans for the Telluride and Pagosa Springs PM₁₀ nonattainment areas, which were submitted with Colorado's May 10, 2000 redesignation requests. We are approving these requests and maintenance plans because Colorado has adequately addressed all of the requirements of the CAA for redesignation to attainment applicable to the Telluride and Pagosa Springs PM₁₀ nonattainment areas. Upon the effective date of this action, the Telluride and Pagosa Springs areas' designation status under 40 CFR part 81 will be revised to attainment.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments be filed. This rule will be effective August 14, 2001 without further notice unless the Agency receives adverse comments by July 16, 2001. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. Summary of Redesignation Request and Maintenance Plan

A. What Requirements Must Be Followed for Redesignations to Attainment?

In order for a nonattainment area to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the CAA must be met:

- (i) We must determine that the area has attained the NAAQS;
- (ii) The applicable implementation plan for the area must be fully approved under section 110(k) of the CAA;
- (iii) We must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable

implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) The State containing such an area must meet all requirements applicable to the area under section 110 and part D of the CAA.

Our September 4, 1992 guidance entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" outlines how to assess the adequacy of redesignation requests against the conditions listed above.

On May 10, 2000, the Governor of Colorado submitted a revision to the SIP for the Telluride and Pagosa Springs area and a request that we redesignate these areas to attainment for PM₁₀. The following is a brief discussion of how Colorado's redesignation requests and maintenance plans meet the requirements of the CAA for redesignation of the Telluride and Pagosa Springs areas to attainment for PM₁₀.

B. Do the Telluride and Pagosa Springs Redesignation Requests and Maintenance Plans Meet the CAA Requirements?

1. Attainment of the PM₁₀ NAAQS

A state must demonstrate that an area has attained the PM₁₀ NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum PM₁₀ concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. In making this showing, the three most recent years of complete air quality data must be used.

Colorado operates one PM₁₀ monitoring site in the Telluride PM₁₀ nonattainment area. Colorado submitted ambient air quality data from the monitoring site which demonstrate that the area has attained the PM₁₀ NAAQS. These air quality data were quality-assured and placed in AIRS. An exceedance of the 24-hour PM₁₀ NAAQS was recorded in 1994 and 1999 but neither exceedance resulted in a violation of the standard (*i.e.*, the 3-year average of estimated exceedances remained below 1.0 per year). These two were the only recorded exceedances since PM₁₀ monitoring began in Telluride in 1987. The annual PM₁₀

NAAQS has never been exceeded in Telluride. The three most recent years of data for the area (1997–1999) are complete (*i.e.*, data are available for at least 75% of the scheduled PM₁₀ samples per quarter) with no recorded violations. We believe that Colorado has adequately demonstrated, through ambient air quality data, that the PM₁₀ NAAQS have been attained in the Telluride area.

Colorado also operates one PM₁₀ monitoring site in the Pagosa Springs PM₁₀ nonattainment area. Colorado submitted ambient air quality data from the monitoring site which demonstrate that the area has attained the PM₁₀ NAAQS. These air quality data were quality assured and placed in AIRS. Two exceedances of the 24-hour PM₁₀ NAAQS were measured on December 21 and again on December 29, 1994. However, the 3-year average of estimated exceedances remained below 1.0 (per year) and therefore did not result in a violation of the 24-hour PM₁₀ NAAQS. The three most recent years of data for the area (1997–1999) are complete (*i.e.*, data are available for at least 75% of the scheduled PM₁₀ samples per quarter) with no recorded violations. While the area recently recorded an exceedance of the 24-hour PM₁₀ NAAQS on June 12, 2000, this exceedance did not result in a violation of the standard and, thus, the area is still eligible for redesignation to attainment. The annual PM₁₀ NAAQS has never been exceeded in Pagosa Springs. We believe that Colorado has adequately demonstrated, through ambient air quality data, that the PM₁₀ NAAQS have been attained in the Pagosa Springs area.

2. State Implementation Plan Approval

Those States containing initial moderate PM₁₀ nonattainment areas were required by the 1990 amendments to the CAA to submit a SIP by November 15, 1991 which demonstrated attainment of the PM₁₀ NAAQS by December 31, 1994. To approve a redesignation request, the SIP for the area must be fully approved under section 110(k) and must satisfy all requirements that apply to that area. We partially/conditionally approved the PM₁₀ SIP for Telluride on September 19, 1994 (59 FR 47807) and fully approved it, with the adoption of new street sanding requirements, on October 4, 1996 (61 FR 51784). We approved the PM₁₀ SIP for Pagosa Springs on May 19, 1994 (59 FR 26126). These PM₁₀ SIPs for Telluride and Pagosa Springs were approved as meeting the moderate PM₁₀ nonattainment plan requirements that were due to EPA on November 15, 1991.

3. Improvement in Air Quality Due to Permanent and Enforceable Measures

A state must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. The primary sources of PM₁₀ emissions in the Telluride area are re-entrained road dust (from highways, paved roads, chip sealed roads, and unpaved roads) and woodburning. In the mid-1980's, Colorado adopted emission standards for all new woodburning stoves and fireplace inserts in Air Quality Control Commission Regulation No. 4. These regulations were most recently approved by us into the SIP on August 24, 1994. In addition, the town of Telluride and San Miguel County have adopted wood and coal burning emission reduction measures which: (1) Require the installation of cleaner-burning devices in existing dwellings which have pre-existing solid fuel burning devices; (2) prohibit solid fuel burning devices in new construction; (3) ban coal burning; and (4) limit the total number of fireplaces and woodstoves in the nonattainment area. These wood and coal burning controls were adopted and implemented throughout the 1980's and 1990's and were approved by EPA into the SIP in 1994. In addition, Telluride has adopted street sanding controls that require the use of street sanding material containing less than "two percent fines" (*i.e.*, two percent of the material passing through a #200 sieve as determined by the American Society for Testing Materials "Standard Method for Sieve Analysis of Fine and Coarse Aggregates", designation C136-84a (1988)). This control strategy was adopted in 1994 and approved by EPA in 1996. Colorado submitted revisions to their SIP Specific Regulation that change the recordkeeping and reporting requirements for street sanding in Telluride. These changes eliminate irrelevant recordkeeping requirements and require users to retain records for 2 years instead of annually submitting reports to the State. Since these changes in recordkeeping and reporting requirements do not change the enforceability of the street sanding control measures in Telluride, we are approving the changes into the SIP. In addition to these State and local control measures, the Federal Motor Vehicle Emission Control Program has reduced PM₁₀ emissions in Telluride as older, higher emitting diesel vehicles are replaced with newer vehicles that meet tighter emission standards. Overall, despite growth in the Telluride nonattainment area (*e.g.*, in population, employment and vehicle miles traveled)

since 1990, attainment of the PM₁₀ NAAQS has been demonstrated. We have evaluated the various control measures, in addition to the 1996 attainment year emission inventory and the projected emissions described below, and have concluded that the continued attainment of the PM₁₀ NAAQS in the Telluride area has resulted from emission reductions that are permanent and enforceable.

The primary source of PM₁₀ emissions in the Pagosa Springs area is re-entrained road dust (from highways, paved roads, gravel roads, and dirt roads). The Town of Pagosa Springs paved 6.5 miles of unpaved roads in 1992, 1993 and 1994 in order to reduce PM₁₀ emissions. In addition, Pagosa Springs has adopted street sanding controls that require the use of street sanding material containing less than "one percent fines" (*i.e.*, one percent of the material passing through a #200 sieve as determined by the American Society for Testing Materials "Standard Method for Sieve Analysis of Fine and Coarse Aggregates", designation C136-84a (1988)). Users of street sand on Highway 160 and Highway 84 must also use 15 percent less sand than an established base sanding amount. These sanding controls were adopted in 1992 and approved by EPA in 1994. Colorado submitted revisions to their SIP Specific Regulation that change the reporting requirements for street sanding in Pagosa Springs. These changes eliminate the road paving control measure that was completed in 1994 and require users to retain records for 2 years instead of annually submitting reports to the State. Since these changes in reporting requirements do not change the enforceability of the current street sanding control measures in Pagosa Springs, we are approving the changes into the SIP. In addition to these State and local control measures, the Federal Motor Vehicle Emission Control Program has reduced PM₁₀ emissions in Pagosa Springs as older, higher emitting diesel vehicles are replaced with newer vehicles that meet tighter emission standards. Overall, despite growth in the Pagosa Springs nonattainment area (*e.g.*, in population and sales tax revenue), attainment of the PM₁₀ NAAQS has been demonstrated. We have evaluated the various control measures, in addition to the 1997 attainment year emission inventory and the projected emissions described below, and have concluded the continued attainment of the PM₁₀ NAAQS in the Pagosa Springs area has resulted from emission reductions that are permanent and enforceable.

4. Fully Approved Maintenance Plan Under Section 175A of the CAA

Section 107(d)(3)(E) of the CAA requires that, for a nonattainment area to be redesignated to attainment, we must fully approve a maintenance plan which meets the requirements of section 175A of the CAA. The plan must demonstrate continued attainment of the relevant NAAQS in the area for at least 10 years after our approval of the redesignation. Eight years after our approval of a redesignation, Colorado must submit a revised maintenance plan demonstrating attainment for the 10 years following the initial 10 year period. The maintenance plan must also contain a contingency plan to ensure prompt correction of any violation of the NAAQS. (See sections 175A(b) and (d).) Our September 4, 1992 guidance outlines 5 core elements that are necessary to ensure maintenance of the relevant NAAQS in an area seeking redesignation from nonattainment to attainment. Those elements, as well as guidelines for subsequent maintenance plan revisions, are as follows:

a. Attainment Inventory. The maintenance plan should include an attainment emission inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. An emission inventory for Telluride was developed for the attainment year (1996). The inventory was based on the 1991 base year inventory approved by us in 1996 and includes emissions from wood and coal burning, restaurants, aircraft, a stationary source, mobile exhaust and re-entrained dust from paved and unpaved roads. Emissions were updated to reflect the latest emission factors, device counts (for stoves/fireplaces), traffic estimates and also to reflect the road paving that has occurred in the area.

An emission inventory for Pagosa Springs was developed for the attainment year (1997). The inventory was based on the 1988 base year inventory approved by us in 1994 and includes emissions from wood and coal burning, mobile exhaust and re-entrained dust from paved and unpaved roads. Emissions were updated to reflect the latest emission factors and traffic estimates as well as the road paving and street sand controls that have occurred in the area.

Colorado conducted silt loading studies during the spring of 1997 in Telluride and Pagosa Springs to update the road dust emission factors used in the inventories. The revised emission factors for road dust used in the Telluride and Pagosa Springs

inventories reflect the control measures that are in place in these areas and include the street sanding controls as well as voluntary street sweeping. Colorado adjusted the emission factors to account for a lack of sanding during the 1997 study period. However, no adjustment was made to account for the voluntary street sweeping that may have occurred. Since the voluntary street sweeping is not an enforceable control measure in the PM₁₀ SIPs for these areas, an additional adjustment to the road dust emission factors must be taken into consideration in our review. If the voluntary street sweeping had been suspended for the duration of the silt loading studies, PM₁₀ emission projections would likely increase no more than 2% in Telluride and 3% in Pagosa Springs. Based on these estimates, the areas would still be able to demonstrate maintenance of the 24-hour NAAQS. Thus, we believe Colorado has prepared adequate attainment inventories for the Telluride and Pagosa Springs areas.

b. Maintenance Demonstration. A state may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. Colorado chose the modeling approach for both Telluride and Pagosa Springs.

The maintenance demonstration for both the Telluride and Pagosa Springs areas uses the chemical mass balance (CMB) roll-forward methodology, which is the same level of modeling used in the original attainment demonstrations for the moderate PM₁₀ SIPs for these areas. The CMB receptor model data are used to identify the sources of emissions that influence PM₁₀ concentrations in the area. Colorado used the attainment inventories to further refine the CMB source identification for each area and then apportion the design day concentration. The design day concentration was determined using EPA's "Table look-up" method. Based on the number of samples collected during a three year period from 1996—1998 (934 samples in Telluride and 1025 samples in Pagosa Springs), the third highest concentration measured during that period is used as the design value: 101 µg/m³ for Telluride and 89 µg/m³ for Pagosa Springs. Colorado prepared a maintenance inventory for the year 2012 for each area and rolled forward the design day concentration based on the changes that occurred in the emission inventory from the

attainment year to the maintenance year. Based on this process, the Telluride 2012 maintenance concentration is 147 µg/m³ and the Pagosa Springs 2012 maintenance concentration is 121 µg/m³. Since these 2012 projections for Telluride and Pagosa Springs are below the 24-hour PM₁₀ NAAQS, maintenance is demonstrated.

Although EPA would normally insist on some interim year projections between the attainment year and 2012, we have no reason to believe that total emissions will be greater than the 2012 projections in any of the interim years. Colorado applied simple, environmentally conservative, growth rates to all source categories other than stationary sources. The stationary source in the Telluride inventory was projected at maximum allowable emissions. Thus, total emissions in all years before 2012 should be less than 2012 total emissions and no interim year projections are required.

Since no violations of the annual PM₁₀ NAAQS have ever occurred in Telluride or Pagosa Springs and since the maintenance demonstration clearly shows maintenance of the 24-hour PM₁₀ NAAQS in these areas through the year 2012, it is reasonable and adequate to assume that protection of the 24-hour standard will be sufficient to protect the annual standard as well. Thus, EPA believes Colorado has adequately demonstrated that the Telluride and Pagosa Springs areas will maintain the PM₁₀ NAAQS for at least the next ten years.

c. Monitoring Network. Once a nonattainment area has been redesignated to attainment, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. Colorado operates one PM₁₀ monitoring site in the Telluride area and one in the Pagosa Springs area. We approve these sites annually, and any future change would require discussion with, and approval from, us. In their May 10, 2000 submittal, Colorado committed to continue to operate these PM₁₀ monitoring stations in Telluride and Pagosa Springs, in accordance with 40 CFR part 58.

d. Verification of Continued Attainment. A state's maintenance plan submittal should indicate how it will track the progress of the maintenance plan. This is necessary due to the fact that the emission projections made for the maintenance demonstration depend

on assumptions of point and area source growth. Colorado commits to analyze the monitoring data in Telluride and Pagosa Springs to verify continued attainment of the PM₁₀ NAAQS. Additionally, in a letter dated January 24, 2001, from Margie Perkins, Director, Colorado Air Pollution Control Division, to Richard Long, Director, EPA Region VIII Air and Radiation Program, Colorado commits to reviewing inventory assumptions (*i.e.*, emission factors, actual or projected population growth and growth in vehicle miles traveled, etc.) on a 3-year basis. EPA relies on this commitment in approving the Telluride and Pagosa Springs maintenance plans and the above-referenced letter is archived as Additional Materials in 40 CFR 52.320(c)(90)(ii).

e. Contingency Plan. Section 175A(d) of the CAA requires that a maintenance plan also include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. For the purposes of section 175A, a state is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously once they are triggered. The plan should discuss the measures to be adopted and a schedule and procedure for adoption and implementation. The State should also identify the specific indicators, or triggers, which will be used to determine when the contingency plan will be implemented.

The Telluride and Pagosa Springs contingency plans will be triggered upon our determination that a PM₁₀ NAAQS violation has occurred in Telluride or Pagosa Springs. The Telluride and Pagosa Springs contingency plans provide that, within six months of our determination that a violation has occurred, Colorado and the local government staff in the area will develop appropriate contingency measure(s) intended to prevent or correct a violation of the PM₁₀ standard. If a violation of the PM₁₀ NAAQS has occurred, a public hearing process at the State and local level will begin. If the Colorado Air Quality Control Commission (AQCC) agrees that the implementation of local measures will prevent further exceedances or violations, the AQCC may approve of the local measures without adopting State requirements. If, however, the AQCC finds locally adopted contingency measures to be inadequate,

the AQCC will adopt State enforceable measures as deemed necessary to prevent additional exceedances or violations. Any State-enforceable measures will become part of the next revised maintenance plan, submitted to us for approval.

Potential contingency measures for the Telluride and Pagosa Springs areas include: transportation control measures designed to reduce vehicle miles traveled, increased street sweeping, additional road paving, more stringent street sand specifications, voluntary or mandatory woodburning bans, expanded use of alternative de-icers, re-establishing nonattainment new source review permitting requirements for stationary sources, or other measures as deemed appropriate.

The Telluride and Pagosa Springs contingency plans provide that the contingency measures will be adopted and fully implemented within one year of a PM₁₀ NAAQS violation.

f. Subsequent Maintenance Plan Revisions. In accordance with section 175A(b) of the CAA, the State of Colorado is required to submit a revision to the maintenance plan eight years after the redesignation of the Telluride and Pagosa Springs areas to attainment for PM₁₀. This revision is to provide for maintenance of the NAAQS for an additional ten years following the first ten year period. Colorado committed, in the Telluride and Pagosa Springs redesignation requests, to submit a revised maintenance plan, for each area, to EPA no later than December 31, 2008.

5. Meeting Applicable Requirements of Section 110 and Part D of the CAA

In order for an area to be redesignated to attainment, section 107(d)(3)(E) requires that it must have met all applicable requirements of section 110 and part D of the CAA. We interpret this to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to, or at the time of, submitting a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

a. Section 110 Requirements. Section 110(a)(2) contains general requirements for nonattainment plans. For purposes of redesignation, the Colorado SIP was reviewed to ensure that all applicable requirements under the amended CAA were satisfied. These requirements were met for Telluride with Colorado's March 17, 1993 and April 22, 1996 submittals

for the Telluride PM₁₀ nonattainment area. We provided full approval of the Telluride SIP Element on October 4, 1996 (61 FR 51784). The section 110(a)(2) requirements were met for Pagosa Springs with Colorado's February 24, 1993 and December 9, 1993 submittals for the Pagosa Springs PM₁₀ nonattainment area. We approved these submittals on May 19, 1994 (59 FR 26126).

b. Part D Requirements. Before a PM₁₀ nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes the general requirements applicable to all nonattainment areas, subpart 4 of part D establishes specific requirements applicable to PM₁₀ nonattainment areas.

The requirements of sections 172(c) and 189(a) regarding attainment of the PM₁₀ NAAQS, and the requirements of section 172(c) regarding reasonable further progress, imposition of Reasonably Available Control Measures (RACM), the adoption of contingency measures, and the submission of an emission inventory, have been satisfied through our September 19, 1994 partial/conditional approval of the Telluride PM₁₀ SIP (59 FR 47807), our October 4, 1996 full approval of the Telluride PM₁₀ SIP (61 FR 51784) with the adoption of new street sanding requirements, our May 19, 1994 approval of the Pagosa Springs PM₁₀ SIP (59 FR 26126), and the demonstration that the Telluride and Pagosa Springs areas are now attaining the NAAQS.

Although EPA's regulations (see 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

We approved the requirements of the part D new source review (NSR) permit program for the Pagosa Springs moderate PM₁₀ nonattainment area on August 18, 1994 (59 FR 42506). In that same **Federal Register** action, we only partially approved Colorado's nonattainment NSR permitting regulations for the Telluride moderate PM₁₀ nonattainment area because Colorado did not submit NSR permitting regulations for sources of PM₁₀ precursors in Telluride and because EPA had not yet found that such sources did not contribute significantly in

Telluride. Colorado's nonattainment area NSR permitting regulations were fully approved on September 19, 1994 when we partially/conditionally approved the PM₁₀ SIP element for Telluride (59 FR 47807). Once the Telluride and Pagosa Springs areas are redesignated to attainment, the prevention of significant deterioration (PSD) requirements of part C of the CAA will apply. We must ensure that Colorado has made any needed modifications to its PSD regulations so that its PSD regulations will apply in the Telluride and Pagosa Springs areas after redesignation. Colorado's PSD regulations, which we approved as meeting all applicable Federal requirements, apply to any area designated as unclassifiable or attainment and, thus, will become fully effective in the Telluride and Pagosa Springs area upon redesignation of the area to attainment.

C. Have the Transportation Conformity Requirements Been Met?

Under our transportation conformity regulations, States are to define the mobile vehicle emissions budget to which Federal transportation plans must demonstrate conformity. The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS.

Colorado had previously adopted mobile source emissions budgets for Telluride for the years 1994 and 1997 of 16,901 lb/day and 14,687 lb/day, respectively. In the Telluride maintenance plan, Colorado established a new mobile source emissions budget of 10,001 lb/day for the year 2012 and beyond. This budget is the total of the 2012 mobile source PM₁₀ emissions and includes vehicle exhaust, highways, paved collector roads, paved local roads and dirt roads. EPA's approval of 10,001 lb/day as the budget means that this value must be used for conformity determinations for all years after 2012. This budget was adopted in Colorado's Ambient Air Standards Regulation and submitted to us for approval. We are approving the emission budget for Telluride into the SIP.

Colorado has also previously adopted mobile source emissions budgets for Pagosa Springs for the years 1994 and 1997 of 6,204 lb/day and 6,281 lb/day, respectively. In the Pagosa Springs maintenance plan, Colorado established a new mobile source emissions budget of 7,486 lb/day for the year 2012 and beyond. This budget is the total of the 2012 mobile source PM₁₀ emissions and includes vehicle exhaust, highways,

paved roads, gravel roads and dirt roads. EPA's approval of 7,486 lb/day as the budget means that this value must be used for conformity determinations for all years after 2012. This budget was adopted in Colorado's Ambient Air Standards Regulation and submitted to us for approval. We are approving the emission budget for Pagosa Springs into the SIP.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund vs. the Environmental Protection Agency*, No. 97-1637, that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in State Implementation Plans (SIPs) are adequate before they are used to determine the conformity of Transportation Plans or Transportation Improvement Programs. In response to the court decision, we make any submitted SIP revision containing an emission budget available for public comment and respond to these comments before announcing our adequacy determination. EPA's transportation conformity rule (40 CFR part 93) spells out criteria that EPA must use in its adequacy review.

EPA sent a letter to the Colorado Air Pollution Control Division on July 12, 2000 stating that the motor vehicle emissions budgets in the submitted Telluride and Pagosa Springs PM₁₀ maintenance plans are adequate. This finding has also been announced on EPA's conformity website: <http://www.epa.gov/otaq/transp/conform/adequacy.htm>. We documented our adequacy determination for Telluride and Pagosa Springs in the **Federal Register** on August 3, 2000 (65 FR 47726). The budgets took effect on August 18, 2000 (15 days after our announcement in the **Federal Register**), superseding the prior PM₁₀ emissions budgets for Telluride and Pagosa Springs.

D. Did Colorado Follow the Proper Procedures for Adopting This Action?

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

Colorado held a public hearing for the proposed rule changes on March 16, 2000. The rulemaking was adopted by the Air Quality Control Commission (AQCC) directly after the March 16, 2000 hearing and was formally submitted to EPA by the Governor on May 10, 2000. We reviewed the submission against our completeness criteria in 40 CFR part 51, appendix V. We determined the submission was complete and notified Colorado in a letter dated August 7, 2000. We have evaluated the Governor's submittal and have determined that Colorado met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

III. Background

To implement our 1987 revisions to the particulate matter NAAQS, on August 7, 1987 (52 FR 29383), we categorized areas of the nation into three groups based on the likelihood that protection of the PM₁₀ NAAQS would require revisions of the existing SIP. We identified both Telluride and Pagosa Springs as PM₁₀ "Group I" areas of concern, i.e., areas with a strong likelihood of violating the PM₁₀ NAAQS and requiring a substantial SIP revision. The Telluride and Pagosa Springs areas were among several Group I PM₁₀ areas, all of which were designated and classified as moderate PM₁₀ nonattainment areas by operation of law upon enactment of the Clean Air Act Amendments of 1990 (November 15, 1990). See 56 FR 56694 at 56705-706 (November 6, 1991).

By November 15, 1991, States containing initial moderate PM₁₀ nonattainment areas were required to submit most elements of their PM₁₀ SIPs. (See sections 172(c), 188, and 189 of the CAA.) Some provisions, such as PM₁₀ contingency measures required by section 172(c)(9) of the CAA and nonattainment new source review (NSR) provisions, were due at later dates. In order for a nonattainment area to be redesignated to attainment, the above mentioned conditions in section 107(d)(3)(E) of the CAA must be met. We partially/conditionally approved the PM₁₀ SIP for Telluride on September 19, 1994 (59 FR 47807) and fully approved it, with the adoption of new street sanding requirements, on October 4, 1996 (61 FR 51784). We approved the PM₁₀ SIP for Pagosa Springs on May 19, 1994 (59 FR 26126).

EPA promulgated new standards for PM₁₀ on September 18, 1997. Areas were to be designated under the new PM₁₀ standard by July 2000. On May 14, 1999, the United States Court of Appeals for the D.C. Circuit in

American Trucking Associations, Inc. et al., v. United States Environmental Protection Agency vacated the 1997 PM₁₀ standard. Because of the Court ruling, we are continuing to implement the pre-existing PM₁₀ standard, and are therefore approving redesignations to qualified PM₁₀ nonattainment areas. On May 10, 2000, the Governor of Colorado submitted a request to redesignate the Telluride and Pagosa Springs moderate PM₁₀ nonattainment areas to attainment (for the 1987 PM₁₀ NAAQS) and submitted maintenance plans for the areas.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective August 14, 2001 unless EPA receives adverse written comments by July 16, 2001.

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 August 14, 2001. 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

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: May 1, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

40 CFR parts 52 and 81, chapter I, title 40 are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(90) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(90) On May 10, 2000, the State of Colorado submitted maintenance plans for the Telluride and Pagosa Springs PM₁₀ nonattainment areas and requested that these areas be redesignated to attainment for the PM₁₀ National Ambient Air Quality Standards. The redesignation requests and maintenance

plans satisfy all applicable requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Colorado Air Quality Control Commission, "State Implementation Plan Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Elements)," 5 CCR 1001–20, revisions adopted 3/16/00, effective 5/30/00, as follows: Section I., Pagosa Springs Attainment/Maintenance Area and Section II., Telluride Attainment/Maintenance Area.

(ii) Additional Material.

(A) January 24, 2001 letter from Margie Perkins, Director, Colorado Air Pollution Control Division, to Richard Long, Director, EPA Region VIII Air and Radiation Program, clarifying the commitments of the Verification of Continued Attainment section of the Telluride and Pagosa Springs maintenance plans.

3. Section 52.332 is amended by adding paragraph (j) to read as follows:

§ 52.332 Moderate PM–10 nonattainment area plans.

* * * * *

(j) On May 10, 2000, the State of Colorado submitted maintenance plans for the Telluride and Pagosa Springs PM₁₀ nonattainment areas and requested that these areas be redesignated to attainment for the PM₁₀ National Ambient Air Quality Standards. The redesignation requests and maintenance plans satisfy all applicable requirements of the Clean Air Act.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.306, the table entitled "Colorado-PM–10" is amended by revising the entries under Archuleta County for the "Pagosa Springs Area" and under San Miguel County for "Telluride" to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * * * *				
Archuleta County:				
Pagosa Springs Area	August 14, 2001	Attainment.		

COLORADO—PM—10—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
Township 35N—Range 2W: Sections 13, 14, 15; Section 23 NE, N ½ SE; Section 24 all except SWSW; Section 25 N ½ NE, NENW. Township 35N—Range 1W: Section 18 W ½				
*	*	*	*	*
San Miguel County:				
Telluride	August 14, 2001	Attainment.		
<p>The Telluride attainment/maintenance area begins 28 at the intersection of Colorado State Highway 145 and the Telluride service area boundary, existed in 1991. The western edge of the 2 nonattainment area until it meets Remine Creek is defined as follows: A tract of land located in a portion of the west one-half of Section 28 and the east one-half of Section 29, Township 43 North, Range 9 west, of New Mexico Principal Meridian, County of San Miguel, State of Colorado, described as follows: Beginning at the southwest corner of the said Section 28; Thence N 89 deg.36'00" W. 292.70 Feet; Thence S 04 deg.05'12" W. 538.63 Feet; Thence N 03 deg.29'42" W. 780.19 Feet; Thence N 22 deg.15'00" E. 3344.16 Feet; Thence S 51 deg.51'49" E. 570.44 Feet; Thence S 03 deg.15'36" E. 1106.22 Feet; Thence S 45 deg.24'42" E. 546.96 Feet; Thence S 28 deg.41'12" W. 549.62 Feet; Thence S 29 deg.40'09" E. 169.68 Feet; Thence S 44 deg.30'03" W. 649.51 Feet; Thence S 85 deg.54'00" E. 660.00 Feet; Thence S 04 deg.06'00" W. 660.00 Feet; Thence N 89 deg.56'00" E. 1318.68 Feet; to the true point of beginning containing 11249 acres as described above. Then, at Remine Creek, the attainment/maintenance boundary follows the service area boundary for 9.65 miles to the 9,200 foot contour line. The boundary then intersects Bear Creek. Here the attainment/maintenance boundary diverges from the service area boundary (9,200 foot contour line). The attainment/maintenance boundary continues in a west, southwest direction for 0.92 miles from the intersection of the 9,200 foot contour line and Bear Creek to the top of ski lift number 9 in the Telluride Ski Area at an elevation of about 11,900 feet. The boundary then shifts and runs in a north-westerly direction for 0.83 miles from the top of lift 9 to the top of lift 7, which is located at an elevation of 10,490 feet. From the top of lift 7, the attainment/maintenance boundary continues in a north-westerly direction for 0.5 miles to the intersection of lift 3 with the 10,000 foot control line. The attainment/maintenance boundary follows the 10,000 foot contour line in a south, south-west direction for 3.2 miles, until it intersects Skunk Creek. Here the boundary diverges from the 10,000 foot contour line and follows Skunk Creek in a northerly direction for 2.25 miles. At the intersection of Skunk Creek and Colorado State Highway 145, the attainment/maintenance boundary leaves the creek and follows Highway 145 in a northerly direction until it meets the service area boundary as it existed prior to changes adopted in 1991.</p>				
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[FR Doc. 01-15029 Filed 6-14-01; 8:45 am]

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**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 281****[FRL-6976-4]****North Carolina; Final Approval of State
Underground Storage Tank Program****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of final determination on the State of North Carolina's application for final approval.

SUMMARY: The State of North Carolina has applied for approval of its underground storage tank program for petroleum and hazardous substances under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed North Carolina's application and has reached a final determination that North Carolina's underground storage tank program for petroleum and hazardous substances satisfies all of the requirements necessary to qualify for approval. Thus, EPA is granting final approval to the State of North Carolina to operate its underground storage tank program for petroleum and hazardous substances.

EFFECTIVE DATE: Final approval for the State of North Carolina's underground storage tanks program shall be effective August 14, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA, Region 4, Sam Nunn Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303, phone number: (404) 562-9441.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 9004 of the Resource Conservation and Recovery Act (RCRA) authorizes the Environmental Protection Agency (EPA) to approve state underground storage tank programs to operate in the state in lieu of the Federal underground storage tank (UST) program. To qualify for final authorization, a state's program must: (1) Be "no less stringent" than the Federal program for the seven elements set forth at RCRA Section 9004(a)(1) through (7); and (2) provide for adequate enforcement of compliance with UST standards of RCRA Section 9004(a). Note that RCRA sections 9005 (on information-gathering) and 9006 (on

Federal enforcement) by their terms apply even in states with programs approved by EPA under RCRA section 9004. Thus, the Agency retains its authority under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions.

On January 16, 1998, the State of North Carolina submitted an official application to obtain final program approval to administer the underground storage tank program for petroleum and hazardous substances. On August 10, 1999, EPA published a tentative decision announcing its intent to grant North Carolina final approval. Further background on the tentative decision to grant approval appears at 64 FR 43336, August 10, 1999.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel the public hearing for lack of public interest. Since there was no public request, the public hearing was cancelled. No public comments were received regarding EPA's approval of North Carolina's underground storage tank program.

The State of North Carolina is not approved to operate the underground storage tank program on Indian lands within the State's borders.

B. Decision

I conclude that the State of North Carolina's application for final program approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, North Carolina is granted final approval to operate its underground storage tank program for petroleum and hazardous substances. The State of North Carolina now has the responsibility for managing all regulated underground storage tank facilities within its border and carrying out all aspects of the underground storage tank program except with regard to Indian lands where EPA will have regulatory authority. North Carolina also has primary enforcement responsibility, although EPA retains the right to conduct enforcement actions under section 9006 of RCRA.

C. Administrative Requirements*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local or tribal governments or the private sector. The UMRA generally excludes from the definition of "Federal intergovernmental mandate" duties that arise from participation in a voluntary Federal program. North Carolina's participation in EPA's state program approval process under RCRA Subtitle I is voluntary. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.