

ENVIRONMENTAL PROTECTION AGENCY

[CO-001-0036; AD-FRL-6451-7]

Approval and Promulgation of State Implementation Plans; Call for Visibility SIP Revision for Colorado Class I Visibility Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA hereby gives notice that in a September 22, 1999 letter it notified the Governor of Colorado that the Colorado State Implementation Plan (SIP) for Class I Visibility Protection (Visibility SIP) is substantially inadequate to make reasonable progress toward the National visibility goal, as specified in section 169A(a)(1) of the Clean Air Act. Specifically, Colorado's Visibility SIP is substantially inadequate to remedy existing and prevent future man-made visibility impairment in Mt. Zirkel Wilderness Area and must be revised.

DATES: A revision to the Colorado Visibility SIP is due within 12 months of the date of EPA's letter to the Governor.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Air and Radiation Program, 999 18th Street, suite 500, Denver, Colorado 80202-2466, (303) 312-6449.

SUPPLEMENTARY INFORMATION:
I. Background

Section 169A of the Clean Air Act (CAA), 42 U.S.C. 7491, establishes as a National goal the prevention of any future, and the remedying of any existing, anthropogenic visibility impairment in mandatory Class I Federal areas¹ (referred to herein as the National visibility goal). Section 169A calls for EPA to, among other things, issue regulations to assure reasonable progress toward meeting the National visibility goal, including requiring each State with a mandatory Class I Federal area to revise its SIP to contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the National visibility goal. CAA section 169A(b)(2).

¹ Mandatory Class I Federal areas include international parks, national wilderness areas greater than five thousand acres in size, national memorial parks greater than five thousand acres in size, and national parks greater than six thousand acres in size, as described in section (162)(a) of the CAA (42 U.S.C. 7472(a)). Each mandatory Class I Federal area is the responsibility of a "Federal land manager" (FLM), the Secretary of the department with authority over such lands. See section 302(i) of the CAA, 42 U.S.C. 7602(i).

Section 110(a)(2)(J) of the CAA, 42 U.S.C. 7410(a)(2)(J), similarly requires SIPs to meet the visibility protection requirements of the CAA.

EPA promulgated regulations that require affected States to, among other things, (1) coordinate development of SIPs with appropriate Federal Land Managers (FLMs); (2) develop a program to assess and remedy visibility impairment from new and existing sources; and (3) develop a long-term strategy to assure reasonable progress toward the National visibility goal. See 45 FR 80084, December 2, 1980 (codified at 40 CFR 51.300-51.307). The regulations provide for the remedying of visibility impairment that is reasonably attributable to a single existing stationary facility or small group of existing stationary facilities.

The Colorado SIP for Class I Visibility Protection was approved by EPA on August 12, 1988 (53 FR 30428). EPA approved subsequent revisions to this SIP on October 11, 1994 and January 16, 1997 (see 59 FR 51376 and 62 FR 2305, respectively).

On July 14, 1993, the U.S. Forest Service (USFS) certified visibility impairment in Mt. Zirkel Wilderness Area, a mandatory Class I Federal area, and named the Hayden and Craig Generating Stations in the Yampa Valley of northwest Colorado as suspected sources. The USFS is the FLM for Mt. Zirkel Wilderness Area. Although the State resolved the certification of impairment with respect to Hayden Station (see 62 FR 2305, January 16, 1997), the State has not resolved the certification for Craig Generating Station.

II. Finding of Inadequacy

In its September 22, 1999 letter to the Governor of Colorado, EPA found² that the Colorado Visibility SIP is substantially inadequate to make reasonable progress toward the National visibility goal, as specified in section 169A(a)(1) of the CAA, 42 U.S.C. 7491(a)(1). Specifically, Colorado's Visibility SIP is substantially inadequate to remedy existing and prevent future man-made visibility impairment in Mt. Zirkel Wilderness Area. EPA believes that a Best Available Retrofit Technology (BART) limit is warranted for Craig Generating Station and that the current SIP is deficient because it does not include such a BART or BART equivalent limit.

² The finding was made pursuant to section 110(k)(5) of the Clean Air Act, 42 U.S.C. 7410(k)(5).

III. Call for SIP Revision

The finding of SIP inadequacy requires Colorado to submit a SIP revision no later than 12 months from the date of EPA's letter to the Governor. To ensure that the SIP deadline is met, EPA requested the State to submit an action plan for the development of the SIP revision within 30 days from receipt of EPA's letter to the Governor. Any control strategies adopted and implemented as part of this SIP revision must provide for the remedying of existing and the prevention of future man-made visibility impairment in Mt. Zirkel Wilderness Area resulting from Craig Generating Station's emissions.

IV. EPA Action

The finding of inadequacy and call for a SIP revision as set out in the September 22, 1999 letter to the Governor do not constitute a final agency action that is ripe for judicial review. EPA's action is a preliminary step in an ongoing administrative process. See *Greater Cincinnati Chamber of Commerce v. U.S. EPA*, 879 F.2d 1379 (6th Cir. 1989). A final agency action will occur when EPA makes a binding determination regarding the State's response to the SIP call. This would occur, for example, if EPA either approves or disapproves the SIP submittal or promulgates a Federal Implementation Plan if the State does not submit an adequate SIP revision. (See sections 110(c) and 110(k) of the Clean Air Act.) Either action would become final only after EPA provides public notice and an opportunity for public comment.

A technical support document (TSD) is available from the contact person listed above. The TSD discusses in more detail the Mt. Zirkel Wilderness Area certification of visibility impairment issued by the USFS in 1993, technical studies related to the Craig Generating Station's contribution to such impairment and available control technology, the SIP call and legal authority, and the SIP revision schedule.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Authority: Sections 101, 107, 110, 116 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401, 7407, 7410, 7416 and 7610(a)).

Dated: September 23, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

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