

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS—Continued

[See notes at end of table]

State citation	Title/Subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
310 CMR 7.29 ..	Emission Standards for Power Plants.	8/9/2012	9/19/13	[Insert <b>Federal Register</b> page number where the document begins].	137	Facility specific Emission Control Plan for Salem Harbor Station Units 1, 2, 3, and 4 which limits NO <sub>x</sub> emissions from Unit 1 to 276 tons per rolling 12 month period starting 1/1/2012, limits NO <sub>x</sub> emissions for Unit 2 to 50 tons per rolling 12 month period starting 1/1/2012, limits SO <sub>2</sub> emissions form Unit 2 to 300 tons per rolling 12 month period starting 1/1/2012, shuts down units 3 and 4 effective 6/1/2014.
*	*	*	*	*	*	*

**Notes:**

1. This table lists regulations adopted as of 1972. It does not depict regulatory requirements which may have been part of the Federal SIP before this date.
2. The regulations are effective statewide unless otherwise stated in comments or title section.

[FR Doc. 2013–22692 Filed 9–18–13; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA–R08–OAR–2012–0475; FRL–9901–06–Region 8]****Approval and Promulgation of Air Quality Implementation Plans; State of Colorado Second Ten-Year PM<sub>10</sub> Maintenance Plan for Aspen****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking final action approving State Implementation Plan (SIP) revisions submitted by the State of Colorado. On May 25, 2011, the Governor of Colorado's designee submitted to EPA a revised maintenance plan for the Aspen area for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM<sub>10</sub>), which was adopted by the State on December 16, 2010. As required by Clean Air Act (CAA) section 175A(b), this revised maintenance plan addresses maintenance of the PM<sub>10</sub> standard for a second 10-year period beyond the area's original redesignation to attainment for the PM<sub>10</sub> NAAQS. In addition, EPA is approving the revised maintenance plan's 2023 transportation conformity motor vehicle emissions budget for

PM<sub>10</sub>. This action is being taken under sections 110 and 175A of the CAA.

**DATES:** This rule is effective on November 18, 2013 without further notice, unless EPA receives adverse comment by October 21, 2013. 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:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2012–0475, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Email: [ostigaard.crystal@epa.gov](mailto:ostigaard.crystal@epa.gov).
- Fax: (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

• **Mail:** Carl Daly, Director, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

• **Hand Delivery:** Carl Daly, Director, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA–R08–OAR–2012–0475. EPA's policy is that all comments received will be included in the public docket without change and may be

made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov>

[www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Crystal Ostigaard, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6602, [ostigaard.crystal@epa.gov](mailto:ostigaard.crystal@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials *APCD* mean or refer to the Colorado Air Pollution Control Division.
- (iii) The initials *AQCC* mean or refer to the Colorado Air Quality Control Commission.
- (iv) The initials *AQS* mean or refer to the EPA Air Quality System database.
- (v) The words *Colorado* and *State* mean or refer to the State of Colorado.
- (vi) The initials *CDPHE* mean or refer to the Colorado Department of Public Health and Environment.
- (vii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (viii) The initials *MVEB* mean or refer to motor vehicle emissions budget.
- (ix) The initials *NAAQS* mean or refer to National Ambient Air Quality Standard.
- (x) The initials *PM<sub>10</sub>* mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (coarse particulate matter).
- (xi) The initials *RTP* mean or refer to the Regional Transportation Plan.
- (xii) The initials *SIP* mean or refer to State Implementation Plan.

(xiii) The initials *TIP* mean or refer to the Transportation Improvement Program.

(xiv) The initials *TSD* mean or refer to technical support document.

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#### I. General Information

1. *Submitting CBI.* Do not submit CBI to EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

#### II. Background

The Aspen area was designated nonattainment for PM<sub>10</sub> and classified as moderate by operation of law upon enactment of the CAA Amendments of 1990. See 56 FR 56694, 56705, 56736 (November 6, 1991). EPA fully approved Colorado's nonattainment area SIP for the Aspen area on September 14, 1994 (59 FR 47088).

On November 9, 2001, the Governor of Colorado submitted a request to EPA to redesignate the Aspen moderate PM<sub>10</sub> nonattainment area to attainment for the 1987 PM<sub>10</sub> NAAQS. Along with this request, the State submitted a maintenance plan, which demonstrated that the area would continue to attain the PM<sub>10</sub> NAAQS through 2015. EPA approved the Aspen maintenance plan and redesignation to attainment on May 15, 2003 (68 FR 26212).

Eight years after an area is redesignated to attainment, CAA section 175A(b) requires the state to submit a subsequent maintenance plan to EPA, covering a second 10-year period.<sup>1</sup> This second 10-year maintenance plan must demonstrate continued maintenance of the applicable NAAQS during this second 10-year period. To fulfill this requirement of the Act, the Governor of Colorado's designee submitted the second 10-year update of the PM<sub>10</sub> maintenance plan to EPA on May 25, 2011 (hereafter; "revised Aspen PM<sub>10</sub> Maintenance Plan").

As described in 40 CFR 50.6, the level of the national primary and secondary 24-hour ambient air quality standards for PM<sub>10</sub> is 150 micrograms per cubic meter (µg/m<sup>3</sup>). An area attains the 24-hour PM<sub>10</sub> standard when the expected number of days per calendar year with a 24-hour concentration in excess of the standard (referred to herein as "exceedance"), as determined in accordance with 40 CFR part 50, appendix K, is equal to or less than one, averaged over a three-year period.<sup>2</sup> See

<sup>1</sup> In this case, the initial maintenance period described in CAA section 175A(a) was required to extend for at least 10 years after the redesignation to attainment, which was effective on July 14, 2003. See 68 FR 26212. So the first maintenance plan was required to show maintenance at least through 2013. CAA section 175A(b) requires that the second 10-year maintenance plan maintain the NAAQS for "10 years after the expiration of the 10-year period referred to in [section 175A(a)]." Thus, for the Aspen area, the second 10-year period ends 2023.

<sup>2</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standard, 150 µg/m<sup>3</sup>, after rounding to the nearest 10 µg/m<sup>3</sup> (i.e., values ending in five or greater are to be rounded up). Thus, a recorded value of 154 µg/m<sup>3</sup> would not be an exceedance since it would be rounded to 150 µg/m<sup>3</sup>; whereas, a recorded value of 155 µg/m<sup>3</sup> would be an exceedance since it would be rounded to 160 µg/m<sup>3</sup>. See 40 CFR part 50, appendix K, section 1.0.

40 CFR 50.6 and 40 CFR part 50, appendix K.

Table 1 below shows the maximum monitored 24-hour PM<sub>10</sub> values for the Aspen PM<sub>10</sub> maintenance area for 2004 through 2012. The table reflects that the values for the Aspen area are well below the PM<sub>10</sub> NAAQS standard of 150 µg/m<sup>3</sup>.

**TABLE 1—ASPEN PM<sub>10</sub> MAXIMUM 24-HOUR VALUES BASED ON DATA FROM 120 MILL STREET, AQS IDENTIFICATION NUMBER 08–097–0006**

Year	Maximum value (µg/m <sup>3</sup> )
2004 .....	65
2005 .....	51
2006 .....	57
2007 .....	79
2008 .....	65
2009 .....	47
2010 .....	70
2011 .....	51
2012 .....	87

Table 2 below shows the estimated number of exceedances for the Aspen PM<sub>10</sub> maintenance area for the three-year periods of 2004 through 2006, 2005 through 2007, 2006 through 2008, 2007 through 2009, 2008 through 2010, 2009 through 2011, and 2010 through 2012. The table reflects continuous attainment of the PM<sub>10</sub> NAAQS.

**TABLE 2—ASPEN PM<sub>10</sub> ESTIMATED EXCEEDANCES BASED ON DATA FROM 120 MILL STREET, AQS IDENTIFICATION NUMBER 08–097–0006**

Design value period	3-Year estimated number of exceedances
2004–2006 .....	0
2005–2007 .....	0
2006–2008 .....	0
2007–2009 .....	0
2008–2010 .....	0
2009–2011 .....	0
2010–2012 .....	0

### III. What was the State's process?

Section 110(a)(2) of the CAA requires that a state provide reasonable notice and public hearing before adopting a SIP revision and submitting it to EPA.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the revised Aspen PM<sub>10</sub> Maintenance Plan on December 16, 2010. The AQCC approved and adopted the revised Aspen PM<sub>10</sub> Maintenance Plan directly after the hearing. The Governor's designee submitted the revised plan to EPA on May 25, 2011.

We have evaluated the revised maintenance plan and have determined that the State met the requirements for reasonable public notice and public hearing under section 110(a)(2) of the CAA. On November 25, 2011, by operation of law under CAA section 110(k)(1)(B), the revised maintenance plan was deemed to have met the minimum "completeness" criteria found in 40 CFR part 51, appendix V.

### IV. EPA's Evaluation of the Revised Aspen PM<sub>10</sub> Maintenance Plan

The following are the key elements of a Maintenance Plan for PM<sub>10</sub>: Emission Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Motor Vehicle Emission Budget for PM<sub>10</sub>. Below, we describe our evaluation of these elements as they pertain to the revised Aspen PM<sub>10</sub> Maintenance Plan.

#### A. Emission Inventory

The revised Aspen PM<sub>10</sub> Maintenance Plan includes three inventories of daily PM<sub>10</sub> emissions for the Aspen area; they are for 2008, 2015 and 2023. The Air Pollution Control Division (APCD) developed these emission inventories using EPA-approved emissions modeling methods and updated transportation and demographics data. Each emission inventory is a list, by source category, of the air contaminants directly emitted into the Aspen PM<sub>10</sub> maintenance area. A more detailed description of the 2008, 2015 and 2023 inventories and information on model assumptions and parameters for each source category are contained in the State's PM<sub>10</sub> Maintenance Plan Technical Support Document (TSD). Included in all the inventories are highway vehicle exhaust, road dust, commercial cooking, construction, fuel combustion, non-road sources, structure fires, and woodburning. We find that Colorado has prepared adequate emission inventories for the area.

#### B. Maintenance Demonstration

The revised Aspen PM<sub>10</sub> Maintenance Plan uses emission roll-forward modeling to demonstrate maintenance of the 24-hour PM<sub>10</sub> NAAQS through 2023. Using the 2008 and 2023 emissions inventories, the State first determined the projected growth in PM<sub>10</sub> emissions from the 2008 base year to the 2023 maintenance year. The State estimated that emissions would increase from 1,231.2 pounds per day in 2008 to 1,593.0 pounds per day in 2023. This represents an increase of 29.4 percent.

The State then applied this percentage increase to the design day concentration

of 79 µg/m<sup>3</sup>, which was the highest 24-hour maximum PM<sub>10</sub> value recorded in Aspen from 2006–2008. This resulted in an estimated maximum 24-hour PM<sub>10</sub> concentration in 2023 of 102.2 µg/m<sup>3</sup>. This is well below the 24-hour PM<sub>10</sub> NAAQS of 150 µg/m<sup>3</sup>.

#### C. Monitoring Network/Verification of Continued Attainment

In the revised Aspen PM<sub>10</sub> Maintenance Plan, the State commits to continue to operate an air quality monitoring network in accordance with 40 CFR part 58 to verify continued attainment of the PM<sub>10</sub> NAAQS. This includes the continued operation of a PM<sub>10</sub> monitor in the Aspen area, which the State will rely on to track PM<sub>10</sub> emissions in the maintenance area.

Based on the above, we are approving these commitments as satisfying the relevant requirements. These commitments are similar to those we approved in the original maintenance plan.

#### D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of an area. To meet this requirement the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures.

As stated in the revised Aspen PM<sub>10</sub> Maintenance Plan, exceedances trigger one level of response and violations trigger another. If there is an exceedance, APCD and local government staff will develop appropriate contingency measures intended to prevent or correct a violation of the PM<sub>10</sub> standard. The APCD and local government staff will consider relevant information about historical exceedances, meteorological data, the most recent estimates of growth and emissions, and whether the exceedance might be attributed to an exceptional event. The maintenance plan indicates that the State will generally notify EPA and local governments in the Aspen area within 30 days of the exceedance, but in no event later than 45 days. The process for exceedances will be completed within six months of the exceedance notification.

If a violation of the PM<sub>10</sub> NAAQS has occurred, a public hearing process at the State and local level will begin. If the AQCC agrees that the implementation of local measures will prevent further exceedances or violations, the AQCC may endorse or approve 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. The State commits to adopt and implement any necessary contingency measures within one year after a violation occurs.

The State identifies the following as potential contingency measures in the revised Aspen PM<sub>10</sub> Maintenance Plan: (1) Increased street sweeping requirements; (2) more stringent street sand specifications; (3) reduce the use of street sanding materials only to key areas selected by the City of Aspen for safety reasons; (4) re-implementing the following measures that were removed from the federally-approved plan prior to the approval of the first maintenance plan (but only if they are not being implemented at the time the contingency measures are triggered): Expansion of the bus fleet by 14 buses, establishment of 400 Park 'n Ride lot spaces and a 250-space intercept parking lot, and establishment of intercept lot and cross-town shuttle services; (5) transportation control measures designed to reduce vehicle miles traveled; and (7) other emission control measures appropriate for the area based on consideration of cost effectiveness, PM<sub>10</sub> emission reduction potential, economic and social considerations, or other factors.

We find that the contingency measures provided in the revised Aspen PM<sub>10</sub> Maintenance Plan are sufficient and meet the requirements of section 175A(d) of the CAA.

#### *E. Transportation Conformity Requirements: Motor Vehicle Emission Budget for PM<sub>10</sub>*

Transportation conformity is required by section 176(c) of the CAA. EPA's conformity rule at 40 CFR 93 requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. To effectuate its purpose, the conformity rule requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget(s) (MVEB(s)) contained in a control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is

defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area. Further information concerning EPA's interpretations regarding MVEBs can be found in the preamble to EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193–62196).

The revised Aspen PM<sub>10</sub> Maintenance Plan contains a single MVEB of 1,146 lbs/day of PM<sub>10</sub> for the year 2023, the maintenance year. Once the State submitted the revised plan with the 2023 MVEB to EPA for approval, 40 CFR 93.118 required that EPA determine whether the MVEB was adequate.

Our criteria for determining whether a SIP's MVEB is adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4), which was promulgated August 15, 1997 (see 62 FR 43780). Our process for determining adequacy is described in our July 1, 2004 Transportation Conformity Rule Amendments (see 69 FR 40004) and in relevant guidance.<sup>3</sup> We used these resources in making our adequacy determination described below.

On June 20, 2011, EPA announced the availability of the revised Aspen PM<sub>10</sub> Maintenance Plan, and the PM<sub>10</sub> MVEB, on EPA's transportation conformity adequacy Web site. EPA solicited public comment on the MVEB, and the public comment period closed on July 20, 2011. We did not receive any comments. This information is available at EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/currrips.htm#aspen>.

By letter to the Colorado Department of Public Health and Environment (CDPHE) dated August 11, 2011, EPA found that the revised Aspen PM<sub>10</sub> Maintenance Plan and the 2023 PM<sub>10</sub> MVEB were adequate for transportation conformity purposes.<sup>4</sup> However, we noted in our letter that the revised Aspen PM<sub>10</sub> Maintenance Plan did not discuss the PM<sub>10</sub> MVEB for 2015 of 16,244 lbs/day from the original PM<sub>10</sub> maintenance plan that EPA approved in 2003 (see 68 FR 26212, May 15, 2003).

According to 40 CFR 93.118(e)(1), the EPA-approved 2015 PM<sub>10</sub> MVEB must

continue to be used for analysis years 2015 through 2022 (as long as such years are within the timeframe of the transportation plan), unless the State elects to submit a SIP revision to revise the 2015 PM<sub>10</sub> MVEB and EPA approves the SIP revision. This is because the revised Aspen PM<sub>10</sub> Maintenance Plan did not revise the previously approved 2015 PM<sub>10</sub> MVEB nor establish a new MVEB for 2015. Accordingly, the MVEB “. . . for the most recent prior year . . .” (i.e., 2015) from the original maintenance plan must continue to be used (see 40 CFR 93.118(b)(1)(ii) and (b)(2)(iv)).

We note that there is a considerable difference between the 2023 and 2015 budgets—1,146 lbs/day versus 16,244 lbs/day. This is largely an artifact of changes in the methods, models, and emission factors used to estimate mobile source emissions. The 2023 MVEB is consistent with the State's 2023 emissions inventory for vehicle exhaust and road dust, and, thus, is consistent with the State's maintenance demonstration for 2023.

The discrepancy between the 2015 and 2023 MVEBs is not a significant issue for several reasons. As a practical matter, the 2023 MVEB of 1,146 lbs/day of PM<sub>10</sub> would be controlling for any conformity determination involving the relevant years because conformity would have to be shown to both the 2015 MVEB and the 2023 MVEB. Also, for any maintenance plan, like the revised Aspen PM<sub>10</sub> Maintenance Plan, that only establishes a MVEB for the last year of the maintenance plan, 40 CFR 93.118(b)(2)(i) requires that the demonstration of consistency with the budget be accompanied by a qualitative finding that there are no factors that would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan. Therefore, when a conformity determination is prepared which assesses conformity for the years before 2023, the 2023 MVEB and the underlying assumptions supporting it would have to be considered. Finally, 40 CFR 93.110 requires the use of the latest planning assumptions in conformity determinations. Thus, the most current motor vehicle and road dust emission factors would need to be used, and we expect the analysis would show greatly reduced PM<sub>10</sub> motor vehicle and road dust emissions from those calculated in the first maintenance plan. In view of the above, EPA is approving the 2023 PM<sub>10</sub> MVEB of 1,146 lbs/day.

<sup>3</sup> “Companion Guidance for the July 1, 2004 Final Transportation Conformity Rule, Conformity Implementation in Multi-Jurisdictional Nonattainment and Maintenance Areas for Existing and New Air Quality Standards” (EPA420-B-04-012 July, 2004).

<sup>4</sup> In a **Federal Register** notice dated May 25, 2012, we notified the public of our finding (see 77 FR 31351). This adequacy determination became effective on June 11, 2012.

## V. Final Action

We are approving the revised Aspen PM<sub>10</sub> Maintenance Plan that was submitted to us on May 25, 2011. We are approving the revised maintenance plan because it demonstrates maintenance through 2023 as required by CAA section 175A(b), retains the control measures from the initial PM<sub>10</sub> maintenance plan that EPA approved in May of 2003, and meets other CAA requirements for a section 175A maintenance plan. Our approval includes approval of the revised maintenance plan's 2023 transportation conformity MVEB for PM<sub>10</sub> of 1,146 lbs/day.

## VI. Statutory and Executive Order Reviews

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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). 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 (Pub. L. 104-4).

This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action merely approves a state rule as meeting Federal requirements, 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 "Protection of Children From Environmental Health Risks and Safety Risks" (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. 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. section 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. section 804(2).

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 November 18, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this

direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, PM<sub>10</sub>, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: August 28, 2013.

**Shaun L. McGrath,**

*Regional Administrator, Region 8.*

40 CFR part 52 is amended to read 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 52.332 is amended by adding paragraph (r) to read as follows:

### § 52.332 Control strategy: Particulate Matter.

\* \* \* \* \*

(r) Revisions to the Colorado State Implementation Plan, PM<sub>10</sub> Revised Maintenance Plan for Aspen, as adopted by the Colorado Air Quality Control Commission on December 16, 2010, State effective on March 1, 2011, and submitted by the Governor's designee on May 25, 2011. The revised maintenance plan satisfies all applicable requirements of the Clean Air Act.

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