



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

AUG 11 2011

Ref: 8P-AR

Christopher E. Urbina, M.D., MPH
Executive Director/Chief Medical Officer
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246

Re: Aspen PM₁₀ Second 10-year Maintenance Plan; Transportation Conformity Adequacy

Dear Dr. Urbina:

The EPA has reviewed the Aspen PM₁₀ Clean Air Act section 175A(b) second 10-year maintenance plan State Implementation Plan (SIP) revision that was submitted to the EPA by a letter dated May 25, 2011 from the Colorado Department of Public Health and Environment on behalf of the Governor.

We have found the Aspen PM₁₀ maintenance plan and the 2023 motor vehicle emissions budget (MVEB) adequate for transportation conformity purposes. Our finding focused on the Aspen PM₁₀ maintenance area's ability to meet the applicable procedures and criteria for adequacy, pursuant to 40 CFR§93.118. We will announce this adequacy finding by publishing a Notice in the Federal Register. This adequacy finding will then become federally effective 15 days after the publication of the Notice.

As part of our adequacy review, we announced receipt of the Aspen PM₁₀ maintenance plan and posted an announcement of availability on the EPA's Office of Transportation and Air Quality website at: <http://www.epa.gov/otaq/stateresources/transconf/currrips.htm>. We requested public comments no later than July 20, 2011. We did not receive any comments. In addition, and as part of our review summarized in the enclosure, we reviewed the Governor's SIP revision submittal for any comments about the maintenance plan that may have been submitted during the Colorado Air Quality Control Commission public hearing process. There were no adverse comments from the public.

The EPA notes that for the Aspen PM₁₀ maintenance area, the prior EPA-approved MVEB was 16,244 lbs. per day of PM₁₀ for 2015 (see 68 FR 26212, May 15, 2003). The EPA has reviewed the previously-approved MVEB for 2015 and notes that according to 40 CFR§93.118(e)(1), the prior, EPA-approved PM₁₀ MVEB of 16,244 lbs/day for 2015 must continue to be used from 2015 through 2022, or until such time as the state elects to submit a SIP revision to revise the 2015 PM₁₀ MVEB and the EPA approves the SIP revision. As this maintenance plan does not revise the previously-approved 2015 PM₁₀ MVEB nor establish a new MVEB applicable for 2015 through 2022, the MVEB "... for the most recent prior year..." (i.e., 2015) must continue to be used (see 40 CFR§93.118(b)(1)(ii) and (b)(2)(iv)).

The EPA notes that the Aspen maintenance plan establishes a new MVEB of 1,146 lbs. per day of PM₁₀ for 2023. This apparent inconsistency with the prior EPA-approved 2015 PM₁₀ MVEB of 16,244 lbs/day is not viewed as an impediment for conformity determinations or for air quality concerns for PM₁₀ emissions from motor vehicles and road dust.

As a practical matter, the 2023 MVEB of 1,146 lbs. per day of PM₁₀ would be controlling for any conformity determination involving the relevant years. Please note that for any maintenance plan that only establishes a budget 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 which 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 PM₁₀ motor vehicle and road dust emissions from those calculated in the first maintenance plan. In view of the above, the EPA is satisfied with the MVEB language as stated in section 5. D, "PM10 Emissions Budget" (i.e., 1,146 lbs. per day of PM₁₀ for 2023) on page 23 of the maintenance plan.

This adequacy finding affects future PM₁₀ conformity determinations as prepared and approved by the Colorado Department of Transportation, the Federal Highway Administration and the Federal Transit Administration.

Please note that this adequacy finding is separate from the EPA's subsequent rulemaking action on the Aspen PM₁₀ maintenance plan SIP revision and should not be used to prejudge the EPA's approval or disapproval of the SIP revision.

If there are any questions, please contact Tim Russ of my staff at (303) 312-6479.

Sincerely,



Carl Daly, Director
Air Program

Enclosure

cc: Garrison Kaufman, Acting Director, Air Pollution Control Division
Donald Hunt, Executive Director, CDOT
William Haas, Colorado Division, FHWA
Kistin Kenyon, Region 8, FTA

Enclosure

Aspen PM₁₀ Second 10-Year Maintenance Plan Adequacy Evaluation

Transportation Review Criteria		Is Criterion Satisfied?	Reference in SIP Document / Comments
Sec. 93.118(e)(4)(i)	The plan was endorsed by the Governor (or designee) and was subject to a public hearing.	Yes	<p>May 25, 2011 letter from Christopher E. Urbina, Exec. Director of the Colorado Dept. of Public Health and Environment (on behalf of the Governor.)</p> <p>The submittal includes evidence of a public hearing that occurred on December 16, 2010.</p> <p>Public Hearing Notice: The Aspen PM₁₀ Maintenance Plan (PM₁₀ 2nd Ten-year Maintenance Plan); Public Hearing notice dated September 17, 2010, signed by Douglas Lempke, Administrator, Colorado Air Quality Control Commission (AQCC). Affidavit of publication: The Public Hearing notice was published in the Denver Post on 10/9/10 and on the AQCC Commission website. Note: In a letter dated October 2, 2002, Casey Shpall, Colorado Attorney Generals' office, stated there is no State Requirement to publish a notice in a newspaper for a Notice of AQCC rulemaking.</p>
Sec. 93.118(e)(4)(ii)	The plan was developed through consultation with federal, state and local agencies; full implementation plan documentation was provided and EPA's stated concerns, if any, were addressed.	Yes	<p>The submittal includes the Air Pollution Control Division's statement. Michael C. Ireland, Mayor of Aspen, submitted a letter of support and endorsement for the revised maintenance plan (letter dated 10/28/10). Carla Ostberg, Environmental Health Director, Pitkin County Environmental Health and Natural Resources submitted a letter of support and endorsement for the revised maintenance plan (letter dated 11/23/10). The EPA was advised of the development of the Maintenance Plan and submitted comments on a draft version.</p>
Sec. 93.118(e)(4)(iii)	The Motor Vehicle Emissions Budgets (MVEBs) are	Yes	<p>Table 4, on page 21, (emission inventory for 2023) and as described in Section 5.D. "PM₁₀ Emission Budget" of the 2nd ten-year</p>

Transportation Review Criteria		Is Criterion Satisfied?	Reference in SIP Document / Comments
	clearly identified and precisely quantified.		Maintenance Plan.
Sec. 93.118(e)(4)(iv)	The MVEB(s), when considered together with all other emission sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given plan).	Yes	The 2023 MVEB is consistent with the Maintenance Plan's maintenance demonstration. Refer to section 5.B "Emission Inventories", pages 20 and 21, Tables 2, 3, & 4 (2008, 2015, & 2023 emission inventories) and section 5.C "Maintenance Demonstration" of the 2 nd ten-year Maintenance Plan.
Sec. 93.118(e)(4)(v)	The plan shows a clear relationship between the MVEB(s), control measures and the total emissions inventory.	Yes	The 2 nd ten-year Maintenance Plan discusses the control measures in section 4.B "Control Measures". The relationship of the mobile sources emissions is further described and included in section 5.B "Emission Inventories", Tables 2, 3, & 4 on pages 20 and 21, section 5.C "Maintenance Demonstration", and section 5.D "PM10 Emission Budget".
Sec. 93.118(e)(4)(vi)	Revisions to previously submitted control strategy or maintenance plans explain and document any changes to any previous submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see	Yes	Mobile source emissions and a MVEB were originally documented in the Aspen PM ₁₀ redesignation to attainment and maintenance plan that was approved by the EPA on 5/15/03 (68 FR 26212). EPA has reviewed the previously approved MVEB for 2015 and the language and how this prior-approved MVEB is addressed, in the second paragraph on page 5 of the currently-submitted 2 nd ten-year Maintenance Plan, in section 1. entitled "Introduction". The EPA does not agree with the language as presented in this paragraph. According to 40 CFR 93.118(e)(1), the prior, EPA-approved PM ₁₀ MVEB of 16,244

Transportation Review Criteria	Is Criterion Satisfied?	Reference in SIP Document / Comments
	93.101 for definition), and reasons for the changes (including the basis for any changes to emission factors or estimates of vehicle miles traveled).	<p>lbs/day for 2015 (see 68 FR 26212, May 15, 2003) must continue to be used from 2015 through 2022, or until such time as the state elects to submit a SIP revision to revise the 2015 PM₁₀ MVEB and the EPA approves the SIP revision. As this 2nd ten-year maintenance plan SIP revision does not revise the previously-approved 2015 PM₁₀ MVEB nor establish a new MVEB applicable for 2015 through 2022, the MVEB "... for the most recent prior year..." (i.e., 2015) must continue to be used (see 40 CFR 93.118(b)(1)(ii) and (b)(2)(iv)).</p> <p>The EPA notes in Table 4 of the Aspen 2nd ten-year maintenance plan, the 2023 PM₁₀ emissions for motor vehicles and road dust are now currently calculated to be only a total of 1,146 lbs/day. However, this apparent inconsistency with the prior EPA-approved 2015 PM₁₀ MVEB of 16,244 lbs/day is not viewed as an impediment for conformity determinations or for air quality concerns for PM₁₀ emissions from motor vehicles and road dust. As a practical matter, with the EPA's approval of this Clean Air Act section 175A(b) 2nd ten-year maintenance plan, a conformity determination could not be approved if it was shown to be in conflict with; (1) the new 2023 MVEB or 1,146 lbs. per day, and (2) the provisions of 40 CFR 93.118. Also, as 40 CFR 93.110 requires the use of the latest planning assumptions in conformity determinations, the most current motor vehicle and road dust emission factors, the same as used in this plan, would need to be used and, therefore, would show greatly reduced PM₁₀ motor vehicle and road dust emissions. The EPA is, therefore, satisfied with the MVEB language as stated in section 5.D. (1,146 lbs./day for 2023) on page 23 of the Plan.</p>

Transportation Review Criteria		Is Criterion Satisfied?	Reference in SIP Document / Comments
Sec. 93.118(e)(5)	The EPA has reviewed the state's compilation of public comments and response to comments that are required to be submitted with any implementation plan.	Yes	The Governor's submittal does not indicate there were any public comments at the public hearing
Reviewers: Tim Russ, USEPA, Region 8		Date of Review: June 17, 2011	

