

the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify the specific indicators, or triggers, which will be used to determine when the contingency plan will be implemented.

Chapter 3, section H, contains the Aspen PM<sub>10</sub> contingency plan. Exceedances trigger one level of response and violations trigger another. If there's 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. APCD and local government staff will consider relevant information, including 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 Air Quality Control Commission (AQCC) agrees that the implementation of local measures will prevent further exceedances or violations, the AQCC may endorse or 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. Contingency measures will be adopted and fully implemented within one year of the PM<sub>10</sub> NAAQS violation. Any State-enforceable measures will become part of the next revised maintenance plan, submitted to us for approval.

The maintenance plan specifies the following as potential contingency measures for the Aspen area: Increased street sweeping; road paving requirements; more stringent street sand specifications; voluntary or mandatory woodburning curtailment or bans on all woodburning; expanded mandatory use of alternative de-icers; re-establishing nonattainment new source review permitting requirements for stationary sources;<sup>3</sup> transportation control

measures designed to reduce vehicle miles traveled; re-implementing the following measures (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; or other measures as deemed appropriate, considering various factors.

#### 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 Aspen area to attainment for PM<sub>10</sub>. This revision is to provide for maintenance of the NAAQS for an additional 10 years following the first ten year period. Colorado commits, in the Aspen redesignation request, to submit a revised maintenance plan to EPA eight years after the approval of the redesignation request and maintenance plan.

#### v. 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. These requirements were met for Aspen with Colorado's January 15, 1992, submittal and revisions submitted on March 17, 1993, and December 9, 1993. EPA fully approved the Aspen PM<sub>10</sub> SIP on September 14, 1994 (59 FR 47088). Additional revisions were submitted by the State on March 13, 1995, and were approved by EPA on December 17, 1997 (62 FR 66007).

requirements will apply to the area after the effective date of this action, we interpret the maintenance plan's reference to mean "nonattainment new source review."

#### b. Part D Requirements

Before a PM<sub>10</sub> 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 PM<sub>10</sub> nonattainment areas.

The requirements of sections 172(c) and 189(a) regarding attainment of the PM<sub>10</sub> 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 14, 1994 (59 FR 47088), and December 17, 1997 (62 FR 66007), approvals of the Aspen PM<sub>10</sub> SIP.

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.)

Although there are no stationary sources currently located in the Aspen attainment/maintenance area, once the Aspen area is redesignated to attainment, the prevention of significant deterioration (PSD) requirements of part C of the CAA will apply. Colorado's PSD regulations, which we have previously approved as meeting all applicable Federal requirements (*See* 51 FR 31125, September 2, 1986), apply to any area designated as unclassifiable or attainment and, thus, will become fully effective in the Aspen area upon redesignation of the area to attainment.

#### c. Have the Transportation Conformity Requirements Been Met?

Transportation conformity is required by section 176(c) of the CAA. Our conformity rule requires that transportation plans, programs and projects conform to SIPs and that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund v. the*

<sup>3</sup> The maintenance plan refers to "Re-establishing new source review permitting requirements for stationary sources." Given that PSD permitting