burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 8, 2001.

Norman Neidergang,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16437 Filed 6–28–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ105–0040; FRL–7005–4]

Approval and Promulgation of Implementation Plans; Arizona—Maricopa Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve under the Clean Air Act (CAA or Act), as a revision to the Arizona State Implementation Plan (SIP), a general permit rule that provides for the expeditious implementation of best management practices (BMPs) to reduce particulate matter (PM–10) from agricultural sources in the Maricopa County (Phoenix) PM–10 nonattainment area. EPA is proposing to approve the general permit rule as meeting the ''reasonably available control measure'' (RACM) requirements of the Act.

DATES: Written comments will be accepted until July 30, 2001.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: John Ungvarsky, EPA Region 9, 75 Hawthorne Street (AIR2), San Francisco, CA 94105 or ungvarsky.john@epa.gov.

A copy of docket, containing material relevant to EPA's proposed action, is available for review at: EPA Region 9, Air Division, 75 Hawthorne Street, San Francisco, CA 94105. Interested persons may make an appointment with John Ungvarsky to inspect the docket at EPA's San Francisco office on weekdays between 9 a.m. and 4 p.m.

A copy of docket is also available to review at the Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207–2217.

*Electronic Availability.*This document is also available as an electronic file on EPA's Region 9 Web Page at http://www.epa.gov/region09/air.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky at (415) 744–1286 or ungvarsky.john@epa.gov.

SUPPLEMENTARY INFORMATION

I. Background

A. Air Quality Status

Portions of Maricopa County [1] are designated nonattainment for the PM–10 national ambient air quality standards (NAAQS) [2] and were originally classified as ''moderate'' pursuant to section 188(a) of the CAA. 56 FR 11101 (March 15, 1991). On May 10, 1996, EPA reclassified the Maricopa County PM–10 nonattainment area to ''serious'' under CAA section 188(b)(2). 61 FR 21372. Having been reclassified, Phoenix is required to meet the serious area requirements in CAA section 189(b).

While the Phoenix PM–10 nonattainment area is currently classified as serious, today's proposed action relates only to the moderate area statutory requirements for RACM. However, as discussed further below, Arizona developed state legislation and a general permit rule applicable to agricultural sources of PM–10 when the area had already been reclassified to serious. Therefore the State's focus was on the serious area statutory requirements for ''best available control measures'' (BACM). RACM, as will be seen, is generally considered to be a subset of BACM. As a result, in order to evaluate whether the general permit rule meets the RACM requirements for the purpose of this rulemaking, it was necessary for EPA to refer to portions of the State's serious area state implementation plan (SIP) submittals. Thus, while the Agency is not proposing action at this time on those submittals as they relate to the Act's serious area statutory requirements, those requirements and the State's submittals developed to meet them are discussed here. The relevant portions of the State's serious area submittals are cited below and are included in the docket for this proposed action.

B. CAA Planning Requirements and EPA Guidance

The air quality planning requirements for PM–10 nonattainment areas are set out in subparts 1 and 4 of title I of the Clean Air Act. Those states containing initial moderate PM–10 nonattainment areas were required to submit, among other things, by November 15, 1991 provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993. CAA sections 172(c)(1) and 189(a)(1)(C). Since that deadline has passed, EPA has concluded that the required RACM/RACT must be implemented ''as soon as possible.'' *Delaney* v. *EPA,* 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be ''as soon as practicable.'' See 55 FR 41204, 41210 (October 1, 1990) and 63 FR 28898, 28900 (May 27, 1998).

EPA has issued a ''General Preamble'' [3] describing EPA's preliminary views on how the Agency intends to review SIPs and SIP revisions submitted under title I of the Act, including those state submittals containing moderate PM–10 nonattainment area SIP provisions. The methodology for determining RACM/RACT is described in detail in the General Preamble. 57 FR 13498, 13540–13541. In short and as pertinent here, EPA suggests starting to define RACM with the list of available control measures for fugitive dust in Appendix C1 to the General Preamble and adding to this list any additional control measures proposed and documented in public comments. Any measures that apply to emission sources of PM–10 and that are de minimis and any measures that are unreasonable for technology reasons or because of the cost of the control in the area can then be culled from the list. In addition, potential RACM may be culled from the list if a measure cannot be implemented on a schedule that would advance the date

[1] ''Maricopa,'' ''Maricopa County'' and ''Phoenix'' are used interchangeably throughout this proposal to refer to the nonattainment area.

[2] There are two PM–10 NAAQS, a 24-hour standard and an annual standard. 40 CFR 50.6. EPA promulgated these NAAQS on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulate with new standards applying only to particulate matter up to 10 microns in diameter (PM–10). At that time, EPA established two PM–10 standards. The annual PM–10 standard is attained when the expected annual arithmetic average of the 24-hour samples for a period of one year does not exceed 50 micrograms per cubic meter ($\mu g/m^3$). The 24-hour PM–10 standard of 150 $\mu g/m^3$ is attained if samples taken for 24-hour periods have no more than one expected exceedance per year, averaged over 3 years. See 40 CFR 50.6 and 40 CFR part 50, appendix K.

[3] See ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

for attainment in the area. 57 13498, 13560; 57 FR 18070, 18072 (April 28, 1992).

PM–10 nonattainment areas reclassified as serious under section 188(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions providing for the implementation of BACM no later than four years from the date of reclassification. The SIP must also provide for attainment of the PM–10 NAAQS by December 31, 2001. See CAA sections 188(c)(2) and 189(b). If certain conditions are met, EPA may extend this attainment deadline to no later than December 31, 2006. One of these conditions is that the serious area plan must include the ''most stringent measures'' (MSM) included in the plan of any state or achieved in practice in any state that can feasibly be implemented in the area. CAA section 188(e).

On August 16, 1994, EPA issued an Addendum to the General Preamble that describes the Agency's preliminary views on the CAA provisions for serious area PM–10 nonattainment SIPs. 59 FR 41998. The Addendum provides that for moderate PM–10 areas reclassified as serious, the RACM requirements are carried over and elevated to a higher level of stringency, i.e., BACM. 59 FR 41998, 42009.

Moderate and serious area plans are also required to meet the generally applicable SIP requirements for reasonable notice and public hearing under section 110(a)(2), necessary assurances that the implementing agencies have adequate personnel, funding and authority under section 110(a)(2)(E)(i) and 40 CFR 51.280; and the description of enforcement methods as required by 40 CFR 51.111, and EPA guidance implementing these provisions.

C. Recent History of PM–10 Planning in the Phoenix Area

On August 3, 1998, EPA promulgated under the authority of CAA section 110(c)(1) a federal implementation plan (FIP) to address the CAA's moderate area PM–10 requirements for the Phoenix PM–10 nonattainment area. 63 FR 41326 (August 3, 1998). EPA's PM–10 FIP for the Phoenix area was the result of over six years of planning and litigation regarding the control of PM–10 emissions in the Phoenix area. For a detailed discussion of that history, the reader is referred to EPA's proposed rulemaking for the FIP at 63 FR 15920, 15924–15926 (April 1, 1998).

In the FIP, EPA promulgated, among other things, a demonstration that RACM will be implemented in the Phoenix area as soon as practicable. As part of its RACM demonstration, EPA promulgated an enforceable commitment, codified at 40 CFR 52.127, to ensure that RACM for agricultural sources would be expeditiously adopted and implemented. See 63 FR 41326, 41350.

In May 1998, Arizona Governor Hull signed into law Senate Bill 1427 (SB 1427) which revised title 49 of the Arizona Revised Statutes (ARS) by adding section 49–457. This legislation established an Agricultural Best Management Practices (BMP) Committee[4] that was required to adopt by rule by June 10, 2000, an agricultural general permit specifying BMPs for regulated agricultural activities[5] to reduce PM–10 emissions in the Maricopa PM–10 nonattainment area. ARS 49–457.A–F. Subsection M of ARS 49–457 provided for the initiation of BMP implementation through the commencement of an education program by June 10, 2000.

On September 4, 1998, the State submitted ARS 49–457 to EPA for inclusion in the Arizona SIP as meeting the RACM requirements of CAA section 189(a)(1)(C) and requested that the Agency approve that legislation in place of the FIP commitment in 40 CFR 52.127. On June 29, 1999, EPA approved ARS 49–457 as meeting the RACM requirements of the CAA and withdrew the FIP commitment. 64 FR 34726.

Pursuant to section 189(b)(2), on February 16, 2000, the State submitted as a revision to the PM–10 SIP the ''Revised Maricopa Association of Governments (MAG) 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area'' (1999 serious area plan). Among other things, this plan provides for attainment of both the annual and 24-hour PM–10 NAAQS by December 31, 2006 and relies on ARS 49–457 for the purpose of addressing the CAA's BACM and MSM requirements for agricultural sources.

On April 13, 2000, EPA proposed to approve the 1999 serious area plan as it relates to the annual PM–10 standard and to grant the State's request to extend the attainment date for the annual standard to December 31, 2006. 65 FR 19964. EPA took no action on the serious area plan's provisions for the 24-hour standard because the attainment demonstration relies on BMPs that had not yet been quantified by the State. 65 FR at 19970.

II. Arizona's Agricultural General Permit

As directed by ARS 49–457, the Agricultural BMP Committee adopted the agricultural general permit and associated definitions, effective May 12, 2000, at Arizona Administrative Code (AAC) R18–2–610, ''Definitions for R18–2–611,'' and 611, ''Agricultural PM–10 General Permit; Maricopa PM10 Nonattainment Area'' (collectively, general permit rule). On July 11, 2000, the State submitted AAC R18–2–610 and 611 to EPA as a revision to the Arizona SIP.[6]

In addition to fulfilling the commitment in ARS 49–457 approved by EPA as part of the moderate area PM–10 plan, this submittal was intended to partially satisfy the CAA's serious area PM–10 requirements; the State indicated that documentation for the remaining portions of the serious area SIP revision package would be submitted at a later date.[7] On April 26, 2001, the State submitted this additional documentation as part of a draft revision to the 1999 serious area plan and requested parallel processing, a procedure adopted by EPA to expedite review of a state plan. See 40 CFR part 51, appendix V, section 2.3.1. The State formally submitted the final revision to EPA on June 13, 2001. This submittal includes an attainment demonstration for the 24-hour standard, BACM and MSM demonstrations, description of the public education initiative for the general permit, and a demonstration that the CAA section 110 general requirements have been met.[8]

[4] The Committee is composed of five local farmers, the Director of the Arizona Department of Environmental Quality (ADEQ), the Director of the Arizona Department of Agriculture, the State Conservationist for the United States Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) state office, the Dean of the University of Arizona's College of Agriculture, and a soil scientist from the University of Arizona.

[5] Subsection N.1 of ARS 49–457 defines ''agricultural general permit'' to mean: ''best management practices that: (a) reduce PM–10 particulate emissions from tillage practices and from harvesting on a commercial farm.[;] (b) reduce PM–10 particulate emissions from those areas of a commercial farm that are not normally in crop production. [;] (c) reduce PM–10 particulate emissions from those areas of a commercial farm that are normally in crop production including prior to plant emergence and when the land is not in crop production.''

''Regulated agricultural activities'' are defined as ''commercial farming practices that may produce PM–10 particulate emissions within the Maricopa PM–10 particulate nonattainment area.'' ARS 49–457.N.4.

[6] This submittal was deemed complete by operation of law on January 11, 2001 pursuant to CAA section 110(k)(1)(B).

[7] ''Maricopa County, PM_{10} State Implementation Plan Revision: Agricultural Best Management Practices,'' Richard W. Tobin II, ADEQ, to Felicia Marcus, EPA, July 11, 2000.

[8] ''Submittal of State Implementation Plan revision for the Agricultural Best Management

Continued

In this action, EPA is proposing only to approve the general permit rule as meeting the CAA's RACM requirements. For this purpose, the Agency reviewed the portions of the June 13, 2001 submittal relating to the BACM and MSM demonstrations, public education initiative and CAA section 110 requirements. EPA will formally evaluate the general permit rule in relation to the BACM and MSM requirements in the context of a future rulemaking on the 1999 serious area plan.

AAC R18–2–611 includes thirty-four BMPs identified by the BMP Committee as feasible, effective, and common sense practices that will reduce PM–10 emissions while minimizing negative economic impacts on local agriculture.

A BMP is defined in AAC R18–2–610 as ''a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible and effective in reducing PM–10 particulate emissions from a regulated agricultural activity.''

AAC R18–2–611 requires a commercial farmer [9] to implement by December 31, 2001 at least one BMP to control PM–10 for three categories of emission sources: tillage and harvest, non-cropland, and cropland.[10]

To reduce PM–10 emissions during tillage and harvest activities, a commercial farmer shall implement at least one of following BMPs: Chemical irrigation; combining tractor operations; equipment modification; limited activity during high-wind event; multi-year crop; planting based on soil moisture; reduced harvest activity; reduced tillage system; tillage based on soil moisture; or timing of tillage operation.

To reduce PM–10 emissions from non-cropland, a commercial farmer shall implement at least one of following BMPs: access restriction; aggregate cover; artificial wind barrier; critical area planting; manure application; reduced vehicle speed; synthetic particulate suppressant; track-out control system; tree, shrub, or windbreak planting; or watering.

To reduce PM–10 emissions from cropland, a commercial farmer shall implement at least one of following BMPs: artificial wind barrier; cover crop; cross-wind ridges; cross-wind strip-cropping; cross-wind vegetative strips; manure application; mulching; multi-year crop; permanent cover; planting based on soil moisture; residue management; sequential cropping; surface roughening; or tree, shrub, or windbreak planting.

A commercial farmer is required to maintain a record demonstrating compliance with the general permit. A commercial farmer not in compliance with the general permit is subject to a series of compliance actions described in ARS 49–457.I–K.

The BMP Committee began implementing the general permit rule in June 2000 by means of an extensive educational outreach program informing growers about the BMPs. In addition, the BMP Committee developed a Guide to Agricultural PM–10 Best Management Practices [11] to provide information and guidance on how to effectively implement BMPs. The guide represents a significant step in helping growers reduce PM–10 emissions from farmlands located within the Maricopa County PM–10 nonattainment area.

The BMP Committee developed an Agricultural BMP General Permit Education Program to inform and educate the public and growers about the forthcoming general permit. As of July 2000 nine public presentations had been given in addition to the twenty-two public meetings held by the BMP Committee.[12] Informational public workshops for growers were held on February 20, 2001 and March 1, 2001.[13] The workshops focused on the purpose of the rule, the individual BMPs, recordkeeping requirements, and compliance options. In addition, ADEQ plans to hold an annual workshop to educate growers, inspectors, and interested stakeholders.

In addition to the guide referenced above, the BMP Committee developed a brochure to inform the public and growers about PM–10 and the BMPs.[14]

III. SIP Approval Criteria

Once a SIP submittal is deemed complete, EPA must next determine if the submittal is approvable as a revision to the SIP. EPA must first determine whether the general permit rule meets the RACM requirements of CAA section 189(a)(1)(C) and EPA guidance interpreting that provision. EPA must also determine that the rule meets the general SIP requirements described in section I.B. above.

Finally, in order for EPA to approve the SIP revision, EPA must determine that the SIP submittal complies with CAA section 110(l). Section 110(l) states that the ''Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress * * * or any other applicable requirement of [the Clean Air] Act.''

IV. Evaluation of the Agricultural General Permit Rule

A. RACM Requirements

CAA section 189(a)(1)(C), as interpreted by EPA under the current circumstances, requires that a moderate area plan provide for the implementation of RACM as soon as practicable. Arizona's requirements regarding the timing of the implementation of the BMPs are contained in ARS 49–457. Since EPA has already approved this legislation as meeting the ''as expeditiously as practicable'' test and the general permit rule was adopted in compliance with the statute, EPA need not revisit the timing issue in this rulemaking. See 64 FR 34726.[15]

Therefore EPA need only determine whether the BMPs in the general permit rule meet the level of control required by CAA section 189(a)(1)(C). As discussed above, for this evaluation, EPA looked to the State's BACM and MSM analyses in the June 13, 2001 submittal.[16]

In September 1998, the Agricultural BMP Committee was established for the purpose of developing an agricultural general permit specifying BMPs.[17] The

program in the Maricopa County, PM_{10} Nonattainment Area'' from Jacqueline E. Schafer, ADEQ, to Laura Yoshii, EPA, June 13, 2001.

[9] R18–2–610 defines commercial farmer ''an individual, entity, or joint operation in general control of 10 or more continuous acres of land used for agricultural purposes within the boundary of the Maricopa County PM10 nonattainment area.''

[10] R18–2–610 defines tillage and harvest as ''any mechanical practice that physically disturbs cropland or crops on a commercial farm.'' R18–2–610 defines non-cropland as ''any commercial farm land that: is no longer used for agricultural production; is no longer suitable for production of crops; is subject to a restrictive easement of contract that prohibits use for the production of crops; or includes a private farm road, ditch, ditch bank, equipment yard, storage yard, or well head.'' R18–2–610 defines cropland as ''land on a commercial farm that: is within the time frame of final harvest to plant emergence; has been tilled in a prior year and is suitable for crop production, but is currently fallow; is a turn-row.''

[11] ''Guide to Agricultural PM–10 Best Management Practices, Maricopa County, Arizona PM–10 Nonattainment Area,'' Governor's Agricultural BMP Committee, First edition, February, 2001.

[12] See Enclosure 3, ''Final Revised Background Information,'' BACM—Recommendations from Governor's Agricultural BMP Committee, pages 31–33 of June 13, 2001, Submittal of State Implementation Plan revision for the Agricultural Best Management Practices program in the Maricopa Count PM–10 Nonattainment Area.

[13] Ibid.

[14] ''How Agriculture is Improving Maricopa County's Air Quality,'' Governor's Agricultural BMP Committee, March, 2001.

[15] ACC R18–2–611 reiterates the compliance deadlines contained in ARS 49–457.

[16] See reference in footnote 8.

[17] See reference in footnote 12, pages 9–26.

established an Ad-hoc Technical Group to develop a comprehensive list of potential BMPs for regulated sources in the Maricopa nonattainment area. Participants included the USDA NRCS, USDA Agricultural Research Service, University of Arizona College of Agriculture, ADEQ, University of Arizona College of Agriculture and Cooperative Extension, Western Growers Association, Arizona Cotton Growers Association, Arizona Farm Bureau Federation, and EPA.

The Ad-hoc Technical Group reviewed available dust control regulations, literature, and technical documents, and developed a list of conservation practices potentially suitable to agricultural sources in the Maricopa County nonattainment area. The information sources evaluated are listed in Table 1.

TABLE 1.—INFORMATION SOURCES USED TO DEVELOP A LIST OF CONSERVATION PRACTICES WITH POTENTIAL APPLICABILITY IN MARICOPA COUNTY

NRCS Field Office Technical Guide.
South Coast Air Quality Management District Rule 403 (fugitive dust) Agricultural Handbook.
San Joaquin Valley Unified Air Pollution Control District 1997 PM–10 Attainment Demonstration Plan.
University of Arizona Cooperative Extension Mojave Valley research project.
University of Washington Columbia Plateau research project.
ENSR Report: Evaluation of Fugitive Dust Control in the Maricopa County PM–10 Nonattainment Area. March 1997. Document Number 0493–015–500.
Particulate Control Measure Feasibility Study: Volumes I and II. Prepared for the Maricopa Association of Governments by Sierra Research. January 1997.

From a review of these information sources, 65 potential practices for further consideration were selected.[18] These 65 measures represented a broad spectrum of potential BMPs, many of which related to conservation practices used in the western United States that had never been evaluated in the context of reducing PM–10. This list represented a list of potential practices to be considered in determining what measures are actually available for implementation in the Phoenix area.

The Agricultural BMP Committee thoroughly reviewed the potential practices presented by the Ad-hoc Technical Group and identified 34 [19] of the 65 BMPs to include in the general permit rule that the Committee deemed to be feasible, effective and common sense practices for the Phoenix area which also minimized potential negative impacts on local agriculture.

Of the 31 potential BMPs eliminated, the majority were dropped because they either duplicated another BMP or did not reduce PM–10. Other reasons for elimination included the impracticability of a BMP for the Maricopa County Area, lack of cost effectiveness, or infeasibility of implementation.[20] Examples of how potential BMPs were eliminated for these reasons are provided below:

(1) *No identifiable relation to PM–10 emission reductions.* For example, the original list of potential BMPs developed by the Ad-hoc Technical Committee included a potential BMP for Tree/Shrub Pruning. Although the Tree/Shrub Pruning might qualify as a BMP for some agricultural activities, it would not reduce PM–10. Therefore, the Tree/Shrub Pruning was dropped.

(2) *Duplication.* Many similar BMPs were combined into a single BMP. For example, the original list of potential BMPs included numerous practices that relate to creating a barrier (i.e., Tree/shrub establishment, windbreak/shelterbelt establishment, windbreak/shelterbelt renovation, hedgerow plating, herbaceous wind barriers) to reduce the impact of wind on disturbed soils. These practices were combined into a single BMP: tree, shrub, or windbreak planting.

(3) *Impracticability to Maricopa County farming or implementation infeasibility.* Some of the potential BMPs were determined to be impractical or infeasible. For example, the original list included Wildlife Upland Habitat Management. This conservation practice is intended to create, maintain, or enhance habitat suitable to sustaining desired kinds of upland wildlife.[21] Although evaluated as a potential BMP, it was determined to be impracticable for Maricopa County given that the agricultural sources in question are not located in an area suitable for upland wildlife.

The general permit rule, as finally adopted by the BMP Committee in May 2000, requires that commercial farmers implement at least one BMP for the Tillage and Harvest, Cropland, and Non-cropland categories by December 31, 2001. Because of the variety, complexity, and uniqueness of farming operations, the BMP Committee concluded that farmers need a variety of BMPs to choose from in order to tailor PM–10 controls to their individual circumstances. Further, the BMP Committee acknowledged that there is a limited amount of scientific information available concerning the emission reduction and cost effectiveness of some BMPs, especially in relation to Maricopa County. The BMP Committee balanced these limitations with the common sense recognition that the BMPs would reduce wind erosion and the entrainment of agricultural soils, thereby reducing PM–10. Given the limited scientific information available and the myriad factors that affect farming operations, the BMP Committee concluded that requiring more than one BMP could not be considered technically justified and could cause an unnecessary economic burden to farmers. Instead, the BMP Committee and ADEQ committed to monitor the effectiveness of the BMPs and adjust the program, if needed, in the future.

There are only two PM–10 nonattainment areas in the nation that are currently requiring agricultural sources to reduce PM–10 emissions. The South Coast Air Quality Management District (SCAQMD), which includes the agricultural areas of western Riverside County and the Coachella Valley, is implementing Rules 403 and 403.1 to reduce PM–10 emissions from agricultural sources. The Arizona general permit rule represents the only other measure in the country that requires the implementation of BMPs to reduce PM–10. Because agricultural sources vary by factors such as regional climate, soil type, growing season, crop type, water availability, and relation to urban centers, agricultural PM–10 strategies must be based on local factors. Therefore, while the Committee surveyed measures adopted in other geographic areas, they are of limited utility in determining what measures are available for Maricopa County area. In order to justify additional requirements for farming operations in the area beyond those in the general permit rule, a significant influx of money and additional research would be needed.

The development of the general permit rule was a multi-year endeavor involving an array of experts in agricultural practices. As noted, Arizona is one of the few areas where regulation of PM–10 emissions from the agricultural sector has even been attempted. Based on the available

[18] See reference in footnote 12, pages 15–16.

[19] The BMP Committee divided the 34 BMPs by applicability to the three source categories: 10 BMPs were applicable to the Tillage and Harvest category; 10 BMPs were applicable to the Non-Cropland category; and 14 BMPs were applicable to the Cropland category.

[20] See reference in footnote 12, pages 17–18.

[21] USDA Natural Resources Conservation Service, Arizona; Conservation Practice Summary; Air Quality (cropland—irrigated), FOTG Section IV, November, 1998.

information, EPA believes that the general permit rule represents a comprehensive, sensible approach that meets, and in fact far exceeds, the RACM requirements of CAA section 189(a)(1)(C) and EPA guidance interpreting those requirements.

B. General SIP Requirements

EPA has concluded that the State's June 13, 2001 submittal provides the necessary assurances of adequate personnel and funding required by CAA section 110(a)(2)(E)(i) and 40 CFR 51.280 to carry out the general permit program.[22] ADEQ intends to fund the program through resources currently allocated to the State's existing general permit and compliance program. Based on historical data, ADEQ anticipates a decreasing agricultural source population and, therefore, does not see the need for increased funding to administer the program.

For the general permit program, ADEQ intends to inspect commercial farms every two to three years. In addition, ADEQ intends to develop in 2002 a compliance initiative that selects a geographic area within the nonattainment area for inspections. Based on the results, other initiatives may be developed. Moreover, ADEQ's Air Compliance Section will respond to agricultural related complaints within five working days. ADEQ will also develop a process whereby air inspectors from other agencies will notify ADEQ if they observe an alleged violation or receive a complaint, and an ADEQ inspector will conduct a timely investigation.

EPA has also concluded that the general permit rule, as informed by ARS 49–457 and the State's June 13, 2001 submittal, meets the requirements of 40 CFR 51.111. This provision requires a description of enforcement methods, including procedures for monitoring compliance (discussed above), procedures for handling violations, and designation of agency responsibility for enforcement of implementation. ARS 49–457.I, J, and K and AAC R18–2–611.K and L give ADEQ specific authority to address noncompliance with the general permit rule and includes the steps the department will take to enforce the rule. ADEQ's Air Compliance Section routinely updates its database to include general information regarding complaints and enforcement actions which can be utilized in future years to determine rule effectiveness.

[22] See reference in footnote 8, pages 33–35.

C. CAA Section 110(l)

In its rulemaking on ARS 49–457, EPA concluded that approval of the State legislation and withdrawal of the FIP commitment would not interfere with the attainment, reasonable further progress and RACM requirements of the CAA. 63 FR 71815, 71817. Since the general permit rule strengthens the SIP by providing specific BMPs in place of the commitment to adopt BMPs in ARS 49–457, EPA's proposed approval meets the requirements of CAA section 110(l).

V. Proposed Actions

EPA has evaluated ACC R18–2–610 and 611 and has determined that these rules are consistent with the CAA and EPA policy. Therefore, EPA is proposing to approve ACC R18–2–610 and 611 under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and 189(a)(1)(C).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed 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 proposed 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 proposes to approve 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 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 proposed 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 CS 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 proposed 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 proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter.

Dated: June 22, 2001.

Keith Takata,

Acting Regional Administrator, Region IX.

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