List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(174) is withdrawn as of October 11, 2001.

[FR Doc. 01–25548 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4118a; FRL–7079–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Nine Individual Sources Located in the Philadelphia-Wilmington-Trenton Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for nine major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the direct final rule published on August 31, 2001 (66 FR 45928), EPA stated that if it received adverse comment by October 1, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 31, 2001 (66 FR 45953). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(184) is withdrawn as of October 11, 2001.

[FR Doc. 01–25547 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4148a; FRL–7079–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Three Individual Sources Located in the Philadelphia-Wilmington-Trenton Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for three major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the direct final rule published on August 31, 2001 (66 FR 45938), EPA stated that if it received adverse comment by October 1, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 31, 2001 (66 FR 45954). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(182) is withdrawn as of October 11, 2001.

[FR Doc. 01–25546 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ105–0045; FRL–7063–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving 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 approving the general permit rule as meeting the ''reasonably available control measure'' (RACM) requirements of the Act.

EFFECTIVE DATE: November 13, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, Air Division, U.S.

Environmental Protection Agency, EPA Region 9, 75 Hawthorne Street (AIR2), San Francisco, CA 94105, (415) 744–1286 or *ungvarsky.john@epa.gov*. This document is also available as an electronic file on EPA's Region 9 Web page at *http://www.epa.gov/region09/air*.

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 action relates only to the moderate area statutory requirements for RACM. However, Arizona developed 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 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, EPA referred to portions of the State's serious area SIP submittal.[3]

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'' [4] 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 for attainment in the area. 57 FR 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, among other things, 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, unless EPA grants an extension of that deadline. *See* CAA sections 188(c)(2) and (e); 189(b). 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.

II. Proposed Action

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 that was required to adopt by rule by June 10, 2000, an agricultural general permit specifying BMPs for regulated agricultural activities 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). On June 29, 1999, EPA approved ARS 49–457 as meeting the RACM requirements of the CAA. 64 FR 34726.[5]

Pursuant to 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]

On June 29, 2001, EPA proposed 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). EPA also concluded that its proposed approval of ACC R18–2–610 and 611 meets the requirements of CAA section 110(l). 66 FR 34598.

[1] ''Maricopa,'' ''Maricopa County'' and ''Phoenix'' are used interchangeably throughout this final rule 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.

[3] ''Submittal of State Implementation Plan revision for the Agricultural Best Management program in the Maricopa County PM_{10} Nonattainment Area'' from Jacqueline E. Schafer, Arizona Department of Environmental Quality (ADEQ), to Laura Yoshii, EPA, June 13, 2001. See also the proposal for today's rulemaking at 66 FR 34598, 34599–34600 (June 29, 2001).

[4] *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).

[5] For further information on this legislation and its relationship to the history of PM–10 planning in the Phoenix area, see EPA's proposed action. 66 FR 34598, 34599.

[6] In evaluating this submittal, EPA relied on information submitted on June 13, 2001 by the State as part of its serious area PM–10 plan for Phoenix: ''Submittal of State Implementation Plan revision for the Agricultural Best Management program in the Maricopa County PM_{10} Nonattainment Area'' from Jacqueline E. Schafer, ADEQ, to Laura Yoshii, EPA, June 13, 2001.

III. Comments on Proposed Rule and EPA Responses

EPA received two comment letters on its proposed action. The comments were submitted by Dan Thelander, Chairman, Governor's Agricultural Best Management Practices Committee and Joy E. Herr-Cardillo, Arizona Center for Law in the Public Interest (ACLPI). Mr. Thelander expressed the BMP Committee's support for EPA's proposed approval of the general permit and listed the factors and limitations that the Committee addressed during the development of the general permit. ACLPI, in a July 30, 2001 letter, opposes EPA's proposed action. EPA responds to ACLPI's comments below.

Comment: ACLPI contends that the general permit rule fails to meet the requirement of CAA section 172(c)(1) that SIPs for nonattainment areas ''shall provide for the implementation of all reasonably available control measures.'' ACLPI claims that the rule fails to meet this requirement because the BMP Committee identified a variety of clearly available and feasible control measures that are included in the rule as BMPs, but only requires commercial farmers to implement one BMP from each of three categories. As a result, ACLPI claims, the farmer determines which BMP will be implemented without any limiting parameters; and only one BMP is required under each category even where the implementation of more than one would be technologically and economically feasible, a result clearly prohibited by the CAA and EPA policy.

Response: As relevant to today's action, Arizona's obligation under the CAA is to provide for the implementation of RACM for the agricultural source category.[7] In order to meet this obligation, the State had to determine what requirement would be not only technologically and economically feasible but also reasonable for controlling this source category in the Phoenix area.

This determination was particularly challenging given the variety, complexity and practical realities of farming in the Phoenix area. In its proposed action on the general permit rule and accompanying technical support document (TSD), EPA explained the multi-year/multi-party process for developing the BMPs ultimately adopted by the BMP Committee. *See* 66 FR 34598, 34601. As a result of the diversity and constraints of farming operations, the Committee concluded that farmers need flexibility to tailor PM–10 controls to their particular circumstances and that mandating a single, specific control for each individual farm activity would be unreasonable. The Committee did, however, determine that it could subdivide farming operations in Maricopa into three distinct categories for the purposes of developing the appropriate controls. As a result, the Committee created a menu of control options from which the farmer must select a *minimum* of one for each of the tillage and harvest, cropland and noncropland categories.

EPA concurs with the Committee's assessment and consequently proposed that the requirement to implement at least one control from a list of control options for each of three categories of operations constitutes a reasonable control requirement for the agricultural sector in the Phoenix area.

A requirement that an individual source select one control method from a list, but allowing the source to select which is most appropriate for its situation, is a common and accepted practice for the control of dust. For example, in its PM–10 federal implementation plan (FIP) for Phoenix, EPA promulgated a RACM rule applicable to, among other things, unpaved parking lots, unpaved roads and vacant lots. The rule allows owners and operators to choose one of several listed control methods (pave, apply chemical stabilizers or apply gravel). 40 CFR 52.128(d). In the case of the FIP, those subject to the fugitive dust rule were given a choice of control methods in order to accommodate their financial circumstances. See also South Coast Air Quality Management District (SCAQMD) Rule 403 (providing for alternative compliance mechanisms for the control of fugitive dust from earthmoving, disturbed surface areas, unpaved roads etc.); and SCAQMD Rule 1186 (requiring owners/operators of certain unpaved roads the option to pave, chemically stabilize, or install signage, speed bumps or maintain roadways to inhibit speeds greater than 15 mph). EPA proposed to approve these SCAQMD rules as meeting the RACM and/or BACM requirements of the CAA on August 11, 1998 (63 FR 42786) and took final action approving them on December 9, 1998 (63 FR 67784).[8]

Allowing sources the discretion to choose from a range of specified options is particularly important for the agricultural sector because of the variable nature of farming. As a technical matter, neither EPA nor the State is in a position to dictate what precise control method is appropriate for a given farm activity at a given time in a given locale. The decision as to which control method from an array of methods is appropriate is best left to the individual farmer. Moreover, the economic circumstances of farmers vary considerably. As a result, it is imperative that flexibility be built into any PM–10 control measure for the agricultural source category whether that measure is required to meet the RACM or BACM requirements of the Act.

Comment: ACLPI states that the CAA expressly provides that all RACM must be implemented by December 10, 1993, citing CAA sections 172(c)(1) and 189(a)(1)(C). Citing *Delaney* v. *EPA,* 898 F. 2d 687, 691 (9th Cir. 1990), ACLPI contends that since that deadline has passed, RACM must be implemented ''as soon as possible.'' ACLPI states that the general permit rule does not require implementation of a single BMP until December 31, 2001 and that this is clearly too little too late under the CAA.

Response: EPA addressed this issue in its proposed approval of the general permit rule by explaining that CAA section 189(a)(1)(C), as interpreted by the Agency under the current circumstances, requires the implementation of RACM as soon as practicable. EPA further explained that the Agency addressed Arizona's requirements regarding the timing of the implementation of the BMPs in its final approval of ARS 49–457. 64 FR 34726 (June 29, 1999). It is that enabling legislation that dictates the December 31, 2001 deadline. The general permit rule simply carries out its mandate by reiterating the statutory deadline. 66 FR 34598, 34600. Therefore, ACLPI, if it wished to contest the issue of whether the December 31, 2001 deadline meets the *Delaney* test, should have challenged that rule on that basis. Nevertheless, EPA briefly explains the reasoning for its conclusion below.

In 1996, the State of Arizona conducted a field study (known as the microscale study) of PM–10 sources at various monitoring sites in Phoenix. Following the study, the results were modeled and formed the basis for the State's ''Plan for Attainment of the 24-hour PM–10 Standard-Maricopa County Nonattainment Area,'' May 1997 (microscale plan). It was at that time that the State first discovered that

[7] Nevertheless, as EPA stated in the proposed rulemaking, EPA believes that the general permit rule far exceeds the RACM requirements of the CAA. *See* 66 FR 34598, 34603.

[8] See also EPA's approval of Maricopa County Environmental Services Department (MCESD) Rule 310 as meeting the RACM/BACM requirements (62 FR 41856, August 4, 1997) and EPA's proposal to approve updated Rule 310 and MCESD Rule 310.01 as meeting the same requirements (65 FR 19964, April 13, 2000).

agricultural activities did in fact constitute significant sources of PM–10 in Phoenix, and thus required measures to control them. Because it did not provide for the expeditious implementation of reasonably and best available control measures for these agricultural sources, EPA disapproved the microscale plan for that purpose. 62 FR 41856 (August 4, 1997).

One year after disapproving the microscale plan, EPA issued a final FIP that addressed, among other things, PM–10 emissions from agricultural sources in Phoenix. In the FIP, EPA promulgated an enforceable commitment, codified at 40 CFR 52.127, to adopt, and begin implementing RACM for agricultural fields and aprons by June 2000. 63 FR 41326, 41350 (August 3, 1998).

In developing the FIP, EPA initially evaluated rules in the South Coast Air Basin, the only existing agricultural control measures for PM–10 in the country. However, agricultural sources, unlike many stationary sources which can have many common design features, whether located in California or New Jersey, vary by factors such as regional climate, soil type, growing season, crop type, water availability, and relation to urban centers. Therefore each PM–10 agricultural strategy is necessarily based on local circumstances. With respect to Phoenix and the South Coast, EPA determined that the two areas differ in a number of key characteristics. Based on this initial screening, EPA decided that it would not be responsible to propose the SCAQMD rules at that time because the Agency could not reasonably conclude that their implementation would in fact result in air quality benefits for the Maricopa nonattainment area.

As a result of this conclusion, EPA initiated a stakeholder process to develop RACM in the form of BMPs for Phoenix that eventually included ADEQ, MCESD, the Natural Resources Conservation Service of the U.S. Department of Agriculture, the Maricopa Association of Governments, the Maricopa Farm Bureau, Arizona Farm Bureau Federation, the University of Arizona and others. Following numerous meetings and discussions, EPA concluded that the most feasible approach for the FIP would be the Agency's commitment to develop and implement the BMPs on an expeditious schedule. For a more detailed discussion of EPA's efforts to develop RACM for agricultural sources in Phoenix, see EPA's FIP proposal at 15920, 15936 (April 1, 1998) and the accompanying technical support document.

As discussed above, on June 29, 1999, EPA withdrew the FIP commitment and approved in its place ARS 49–457 which embodies a commitment to adopt by rule by June 10, 2000 a general permit specifying BMPs. The statute also provides for the initiation of a public education program by June 10, 2000 and sets a final deadline of December 31, 2001 for farmers to comply with the BMPs. In its proposed approval of ARS 49–457, EPA reiterated its reasons for concluding that the implementation schedule was as expeditious as practicable:

> In general, EPA believes that because agricultural sources in the United States vary by factors such as regional climate, soil type, growing season, crop type, water availability, and relation to urban centers, each PM–10 agricultural strategy is uniquely based on local circumstances. Furthermore, EPA determined that the goal of attaining the PM–10 standards in Maricopa County with respect to agricultural sources would be best served by engaging all interested stakeholders in a joint comprehensive process on the appropriate mix of agricultural controls to implement in Maricopa County. EPA stated its belief that this process, despite the additional time needed to work through it, will ultimately result in the best and most cost-effective controls on agricultural sources in the County.
>
> In the FIP notices, EPA also explained its intention to meet its RACM commitment by developing and promulgating BMPs. Given the number of potential BMPs, the variety of crops types, the need for stakeholder input, and the time necessary to develop the BMPs into effective control measures, EPA believes that the adoption and implementation schedule in the FIP is as expeditious as practicable and meets the Act's 189(a)(1)(C) requirement.

63 FR 71815, 71817 (December 30, 1998). EPA concluded that the commitment in ARS 49–457 was superior to that in the FIP because it contains more substance and greater procedural detail, and provides a final implementation deadline. Id.[9]

The BMPs have now been adopted and EPA is today approving the general permit rule into the Arizona PM–10 SIP for Phoenix. Thus the December 31, 2001 final implementation deadline will shortly be federally enforceable. Given that (1) agricultural sources had never been regulated anywhere in the country except southern California; (2) agricultural sources vary considerably based on a number of factors; and (3) EPA and ADEQ lacked expertise in farming conditions and practices, EPA believes that under five years from ground zero to final implementation is a considerable accomplishment and meets the *Delaney* test.

Comment: ACLPI, quoting from the ''Technical Support Document for Quantification of Agricultural Best Management Practices,'' Final Draft, URS Corporation and Eastern Research Group, Inc., November 1, 2000, charges that because the general permit rule fails to require any specific control measures, and leaves it entirely to the permittee to determine which BMPs will be implemented, there is no way that the State can know or meaningfully predict what the effect of the rule will be. ACLPI claims that, as a result, any estimated emissions reduction is entirely speculative and, thus, inadequate under the CAA.

Response: The PM–10 emission reductions attributable to the BMPs are not at issue in this rulemaking. Here, EPA is merely determining whether the general permit rule meets the general SIP requirements of CAA section 110(a) and whether that rule represents, pursuant to CAA section 189(a)(1)(C) a ''reasonably available'' level of control and is scheduled to be implemented as expeditiously as practicable. EPA will consider the quantification of the emission reductions from the general permit rule in its forthcoming actions on the State's reasonable further progress and attainment demonstrations in its serious area plan submittals.

Comment: ACLPI comments that the State has proposed to revise the SIP to include the general permit rule as both a control and a contingency measure. Citing CAA section 172(c)(9) and a proposed EPA action on a Washington SIP, ACLPI states that it makes no sense to denominate the rule as a contingency measure.

Response: This comment is also beyond the scope of today's rulemaking because EPA is not acting on the general permit rule as meeting the Act's contingency measure requirements. EPA will address this issue in its forthcoming actions on the State's serious area PM–10 plan for the Phoenix area.

IV. Final Action

For the reasons discussed above and in the proposed rulemaking, EPA is approving, under CAA section 110(k)(3), ACC R18–2–610 and 611, the general permit rule, as meeting the requirements of CAA sections 110(a) and 189(a)(1)(C). Moreover, EPA has concluded that its approval of ACC R18–2–610 and 611 meets the requirements of section 110(l) because the general permit rule strengthens the Arizona PM–10 SIP for the Maricopa County nonattainment

[9] In its final approval of ARS 49–457, EPA also responded to ACLPI's comment claiming that the implementation schedule is not sufficiently expeditious. 64 FR 34726, 34729.

area by providing specific BMPs in place of the commitment to adopt BMPs in ARS 49–457. The general permit rule is also consistent with the development of an overall plan capable of meeting the CAA's PM–10 attainment requirements.

V. Administrative Requirements

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 (Public Law 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 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 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this 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 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. 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 United States Senate, the United States 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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. 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, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 10, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended 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 D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(98) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(98) Plan revisions were submitted on July 11, 2000 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Administrative Code R18–2–610 and R18–2–611 effective May 12, 2000.

* * * * *

(B) [Reserved]

[FR Doc. 01–25549 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50X–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 51d

RIN 0930–AA09

Substance Abuse and Mental Health Services Administration; Mental Health and Substance Abuse Emergency Response Criteria

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Interim final rule.

SUMMARY: Section 3102 of the Children's Health Act of 2000, Pub. L. 106–310, amends section 501 of the Public Health Service (PHS) Act (42 U.S.C. 290aa) to add a new subsection (m) entitled ''Emergency Response.'' This newly enacted subsection 501(m) authorizes the Secretary to use up to, but no more than, 2.5% of all amounts appropriated under Title V of the PHS Act, other than those appropriated under Part C, in each