modifications, as a proposed regulation. (15 U.S.C. 1262(g)(1)).

3. *Reliance on Voluntary Standard.* The Commission is required to consider voluntary standards in its mandatory rulemaking. Specifically, the Commission is required to invite any person to submit to the Commission a statement of intention to modify or develop a voluntary standard to address a risk of injury together with a description of a plan to modify or develop the standard. (15 U.S.C. 1262(f)(6)). If the Commission determines that compliance with a standard submitted to it in response to this invitation is likely to result in the elimination or adequate reduction of the risk of injury identified in the notice, and it is likely that there will be substantial compliance with such standard, then the Commission must terminate the proceeding to promulgate a regulation and publish a notice in the **Federal Register** which includes the determination of the Commission and notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury. Before relying upon any voluntary standard, the Commission must afford interested parties a reasonable opportunity to submit written comments regarding such standard. The Commission must consider such comments in making any determination regarding reliance on the involved voluntary standard.

4. *Corrective Actions Under Section 15 of the FHSA.* The Commission has authority under section 15 of the FHSA, 15 U.S.C. 1274, to pursue corrective actions on a case-by-case basis if the Commission determines that a product constitutes a banned hazardous substance.

G. Request for Information and Comments

In accordance with section 3(f) of the FHSA, the Commission solicits:

1. Written comments with respect to the risk of injury identified by the Commission.
2. Written comments regarding the regulatory alternatives being considered and other possible alternatives for addressing the risk.
3. Any existing standard or portion of a standard which could be issued as a proposed regulation.
4. A statement of intention to modify or develop a voluntary standard to address the risk of injury discussed in this notice, along with a description of a plan (including a schedule) to do so.

In addition, the Commission is interested in receiving information about the testing that is conducted on fireworks before they are distributed, the costs associated with testing, and the impact that testing has on both compliance with the CPSC mandatory fireworks device regulations and on injuries.

Comments should be e-mailed to *cpsc-os@cpsc.gov.* and should be captioned ''FIREWORKS ANPR.'' Comments may also be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, MD 20814, or delivered to the same address (telephone (301) 504–0800). Comments also may be filed by telefacsimile to (301) 504–0127. All comments and submissions should be received no later than September 11, 2006.

Dated: July 5, 2006.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E6–10881 Filed 7–11–06; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 37

[Docket Nos. RM05–25–000 and RM05–17–000]

Preventing Undue Discrimination and Preference in Transmission Service

June 19, 2006.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking: extension of comment period.

SUMMARY: On May 19, 2006, the Commission issued a notice of proposed rulemaking proposing amendments to its regulations adopted in Order Nos. 888 and 889, and to the *pro forma* open access transmission tariff, to ensure that transmission services are provided on a basis that is just, reasonable and not unduly discriminatory or preferential, 70 FR 32635, June 6, 2006. The reply comment period is being extended at the request of the Edison Electric Institute.

DATES: Reply comments are due September 20, 2006.

ADDRESSES: You may submit comments, identified by Docket Nos. RM05–25–000 and RM05–17–000, by one of the following methods:

- Agency Web site: *http://www.ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures section of the preamble.
- Mail: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

Daniel Hedberg (Technical Information), Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6243.

Kathleen Barrón (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6461.

David Withnell (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8421.

SUPPLEMENTARY INFORMATION:

Notice Extending Reply Comment Period

On June 16, 2006, Edison Electric Institute filed a motion for an extension of time to file reply comments in response to the Commission's Notice of Proposed Rulemaking issued May 19, 2006 in the above-docketed proceeding. Preventing Undue Discrimination and Preference in Transmission Service, 115 FERC ¶ 61,211 (2006). Upon consideration, the date for filing reply comments in this proceeding is extended to and including September 20, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–10724 Filed 7–11–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2006–0526; FRL–8192–3]

Approval and Promulgation of Implementation Plans; Arizona—Phoenix PM–10 Nonattainment Area; Salt River Area Plan for Attainment of the 24-Hour PM–10 Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve under the Clean Air Act (CAA) provisions of the *Revised PM–10 State Implementation Plan for the Salt River Area* submitted by the State of Arizona to EPA in October and November 2005. These submittals include adopted rules and commitments that address particulate matter (PM–10) emissions from fugitive dust sources. EPA is proposing to approve these submittals as meeting the best available control measure (BACM) requirements of CAA section 189(b)(1)(B) and the most stringent measure requirement (MSM) of section 188(e) or as strengthening the state implementation plan (SIP). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by August 11, 2006. Comments should be addressed to the contact listed below.

ADDRESSES: Submit comments, identified by docket number [DOCKET NUMBER], by one of the following methods:

1. Federal eRulemaking Portal: *www.regulations.gov.* Follow the on-line instructions.
2. E-mail: *irwin.karen@epa.gov*
3. Mail or deliver: Karen Irwin (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available on-line at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action, including the EPA technical support document (TSD) and other relevant material, is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy locations (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

Copies of the state implementation plan (SIP) materials are also available for inspection at the addresses listed below:

Arizona Department of Environmental Quality, 1110 W. Washington Street, Phoenix, AZ 85007.

Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 200, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Karen Irwin, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. (415) 947–4116, e-mail: *irwin.karen@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. Summary of Today's Proposal

A. Arizona Department of Environmental Quality (ADEQ) Submittals for the Salt River Area

The Salt River area, located in metropolitan Phoenix, is a 32-square mile subarea of the Metropolitan Phoenix (Maricopa County) serious PM–10 nonattainment area. ADEQ has submitted multiple PM–10 plans for the Salt River area, beginning with a January 27, 2004 submittal and followed by August 2, 2004 and August 29, 2005 submittals. An October 7, 2005 submittal, *Revised PM–10 State Implementation Plan for the Salt River Area*, and a supplemental November 29, 2005 submittal, *Revised PM–10 State Implementation Plan for the Salt River Area Additional Submittals*, supersede the previous three submittals and contain the measures that are the subject of this proposed rule. Included with the October 7, 2005 plan submittal are attachments, a technical support document (TSD), and appendices to both the plan and TSD. Hereafter, we refer to the October 2005 submittal as ''Salt River plan'' and the TSD as ''Salt River TSD''. We refer to the November 2005 submittal as ''Salt River plan supplement.'' [1]

While measures contained in the Salt River plan address monitored exceedences of EPA's 24-hour PM–10 national ambient air quality standard (NAAQS) [2] that occurred in that area, they apply to the entire Phoenix PM–10 nonattainment area. This is because the Salt River monitors were sited to be representative of air quality at other sites in the Phoenix PM–10 nonattainment area with similar emissions sources. See 62 FR 31025, 31030 (June 6, 1997).

[1] For additional background on the Salt River portion of the Phoenix PM–10 nonattainment area, see 67 FR 19148 (April 18, 2002) and 67 FR 44369 (July 2, 2002). On July 25, 2002, EPA approved multiple documents submitted to EPA by Arizona for the Phoenix area as meeting the CAA requirements for serious PM–10 nonattainment areas for the 24-hour and annual PM–10 national ambient air quality standards (NAAQS). Among these documents is the ''Revised Maricopa Association of Governments (MAG) 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area,'' February 2000 (MAG plan), that includes the BACM demonstrations for all significant source categories (except agriculture) for both the 24-hour and annual PM–10 standards and the State's request and supporting documentation, including the most stringent measure (MSM) analysis (except for agriculture) for an attainment date extension to 2006 for both standards. EPA's July 25, 2002 final action included approval of these elements of the MAG plan. See EPA's proposed and final approval actions at 65 FR 19964 (April 13, 2000), 66 FR 50252 (October 2, 2001) and 67 FR 48718 (July 25, 2002).

[2] The PM–10 24-hour standard is 150 $\mu g/m^3$. 40 CFR 50.6.

The following rules, requirements and resolutions have been submitted as part of the Salt River plan or the Salt River plan supplement.[3] We are proposing to approve them into the Arizona SIP pursuant to the listed CAA sections.

Rule/measure/commitment	Relevant CAA section(s)
MCAQD Rule 316 ''Nonmetallic Mineral Processing'', adopted June 8, 2005.	189(b)(1)(B) and 188(e).
MCAQD Rule 325 ''Brick and Structural Clay Products (BSCP) Manufacturing'', adopted August 10, 2005.	189(b)(1)(B) and 188(e).
Maricopa County Air Quality Department (MCAQD) Rule 310 ''Fugitive Dust'', adopted April 7, 2004.	189(b) and 188(e) for subsections 304.5 and 502. 110(a) for other subsections.
MCAQD Rule 310.01 ''Fugitive Dust From Open Areas, Vacant Lots, Unpaved Parking Lots, and Unpaved Roadways'', adopted February 17, 2005.	110(a).
MCAQD Appendix C ''Fugitive Dust Test Methods'', adopted April 7, 2004.	189(b), and 188(e) for subsection 3.3.2. 110(a) for other subsections.
MCAQD Appendix F ''Soil Designations'', adopted April 7, 2004	189(b) and 188(e).
MCAQD ''Application for Dust Control Permit'', adopted July 1, 2005	189(b) and 188(e) for Section 2, subsections 10 and 11, and Section 3, subsection I. 110(a) for other subsections.
MCAQD ''Guidance for Application for Dust Control Permit'', adopted July 1, 2005.	189(b) and 188(e) for Section 2, subsection 13, and Section 3. 110(a) for other subsections.
Maricopa County Board Resolution No. C–85–05–005–0–00, adopted January 19, 2005.	189(b) for enforcement resource provisions of Measures 1 through 4. 110(a) for other provisions, including Measure 5.
City of Phoenix Resolution No. 20114, adopted June 16, 2004	110(a).
Resolutions from 18 municipalities and the Arizona Department of Transportation, adopted on various dates.	110(a).

We approved versions of MCAQD Rules 310, 310.01 and Appendix C into the SIP on July 25, 2002 and MCAQD Rule 316 on January 4, 2001. 67 FR 48717 and 66 FR 730.

B. Completeness of the SIP Submittal

CAA section 110(k)(1)(B) requires us to determine if a SIP submittal is complete within 60 days of its receipt. This completeness review allows us to quickly determine if the submittal includes all the necessary items and information we need to take action on it. We make completeness determinations using criteria we have established in 40 CFR part 51, Appendix V.

We have reviewed the October 7, 2005 and November 29, 2005 submittals from Arizona and affirmatively determined that they satisfy our completeness criteria and that they are thereby complete for the purposes of section 110(k)(1) of the Act. We notified the State of our completeness determination by a letter to ADEQ dated December 8, 2005.

II. Applicable CAA Requirements

A. Best Available Control Measures (BACM) and Most Stringent Measures (MSM)

CAA section 189(b)(1)(B) requires serious area PM–10 plans to provide for the implementation of BACM, including Best Available Control Technology (BACT), within four years of reclassification to serious. For the Phoenix area this date was June 10, 2000.[4] Since that date has passed, BACM must now be implemented as expeditiously as practicable. See *Delaney* v. *EPA,* 898 F.2d 687 (9th Cir. 1990); 55 FR 41204, 41210 (October 1, 1990); and 63 FR 28898, 28900 (May 27, 1998).

We have issued a General Preamble, 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992), and Addendum to the General Preamble (Addendum), 59 FR 41998 (August 16, 1994), describing our preliminary views on how we intend to review SIPs submitted to meet the Clean Air Act's requirements for PM–10 plans. The General Preamble mainly addresses the requirements for moderate areas and the Addendum, the requirements for serious areas.

In the Addendum, we explain that BACM is required for all source categories in serious areas unless the state adequately demonstrates that a particular source category does not contribute significantly to nonattainment of the PM–10 standards. We have established a presumption that a ''significant'' source category is one that contributes 5 μg/m^3 or more of PM–10 to a location of 24-hour violation. Addendum at 42011. We have defined BACM to be, among other things, the maximum degree of emission reduction achievable from a source or source category which is determined on a case-by-case basis, considering energy, economic, environmental impacts and other costs. BACT applies to stationary sources and is a subset of BACM. Addendum at 42009.

We have outlined in our guidance a multi-step process for identifying BACM/BACT. Addendum at 42010–42014. The steps are:

1. Develop a detailed emissions inventory of PM–10 sources and source categories,
2. Model to evaluate the impact on PM–10 concentrations over the standards of the various sources and source categories to determine which are significant,
3. Identify potential BACM for significant source categories and evaluate their reasonableness, considering technological feasibility, costs, and energy and environmental impacts and,
4. Provide for the implementation of the BACM or provide a reasoned justification for rejecting any potential BACM. When the process is complete, the individual measures should then be converted into a legally enforceable vehicle (e.g., a regulation or permit). CAA sections 172(6) and 110(a)(2)(A).

Under CAA section 188(e), the State is required to demonstrate to our satisfaction that its serious area plan includes the most stringent measures that are included in the implementation plan of any state or are achieved in practice in any state and can be feasibly implemented in the area. The section 188(e) requirement for MSM is similar to the requirement for BACM and we have therefore defined a ''most stringent

[3] Maricopa County Air Quality Department (MCAQD) Rule 310.01, ''Application for Dust Control Permit,'' and ''Guidance for Application for Dust Control Permit'' can be found in the Salt River plan supplement while the remaining rules and commitments can be found in Appendix B of the Salt River plan.

[4] The Phoenix area's reclassification to serious was effective on June 10, 1996. 61 FR 21372 (May 10, 1996).

measure'' level of control as the maximum degree of emission reduction that has been required or achieved from a source or source category in other SIPs or in practice in other states and can be feasibly implemented in the area. Given this similarity between the BACM and MSM requirements, we believe that determining MSM should follow a process similar to determining BACM, but with one additional step, to compare the potentially most stringent measure against the measures already adopted in the area to determine if the existing measures are most stringent. See, e.g., 66 FR 50252, 50257 and 50282–50284 (October 2, 2001).

B. General SIP Requirements

Generally, SIP rules must be enforceable (see CAA section 110(a)) and must not relax existing requirements (see sections 110(l) and 193).[5] The EPA guidance and policy document we used to help evaluate enforceability is ''Guidance Document for Correcting Common VOC and Other Rule Deficiencies'', U.S. EPA Region IX, August 21, 2001 (the Little Bluebook).

III. Evaluation of Adopted Measures and Commitments

A. Summary

The measures in the Salt River plan consist of: (1) Rules adopted by MCAQD for various fugitive dust sources; (2) MCAQD commitments designed to improve source compliance with fugitive dust requirements; (3) commitments from multiple municipalities, Maricopa County Department of Transportation (MCDOT), and the State addressing paved road re-entrained dust; (4) a City of Phoenix commitment addressing alluvial channels; and (5) MCAQD application and guidance documents for Rule 310 dust control plans.

B. Rules 316 and 325

ADEQ identifies industrial sources as significant contributors to PM–10 24-hour exceedences at the Salt River monitors.[6] Industrial-related emissions fall into three categories: (1) Stationary point (stack) sources; (2) stationary process sources (e.g., aggregate screens and crushers); and (3) area sources, e.g., unpaved roads, open storage piles, and trackout onto paved roads. Given ADEQ's finding that industrial sources contribute significantly to 24-hour PM–10 exceedences, CAA sections 189(b) and 188(e) apply and BACM and MSM demonstrations are required.

ADEQ found that the vast majority of industrial source PM–10 emissions are generated by nonmetallic mineral processing sources. The SIP-approved version of MCAQD Rule 316 contains requirements for stationary stack and process sources at nonmetallic mineral processing plants and rock product plants.[7] With regard to other industrial sources in the Salt River area, ADEQ evaluated permitted industrial stack sources for compliance with BACM/BACT and MSM and found that control measures on all facilities met these requirements except brick and structural clay product manufacturing facilities.[8] Thus, MCAQD adopted Rule 325 based on ADEQ's recommendation that BACM/BACT and MSM must be met for these sources.[9]

ADEQ first identified candidate BACM/BACT and MSM for Rule 316 and Rule 325 sources by researching controls in several areas, including PM–10 nonattainment areas in California, Nevada, Texas, Florida, and Oklahoma.[10] ADEQ then conducted a technical and economic feasibility analysis with specific estimates of control efficiency and cost for each type of emissions point or control measure.[11] For the MSM comparison, ADEQ developed a series of tables that benchmark the most stringent controls in other areas.[12]

Based on its analysis, ADEQ recommended specific augmentations to Rule 316 for purposes of meeting BACM/BACT and MSM requirements. In addition, through its rulemaking process for Rule 316,[13] MCAQD identified additional MSM for nonmetallic mineral processing facilities in South Coast Air Quality Management District (SCAQMD) Rule 1157, ''PM–10 Emissions from Aggregate and Related Operations,'' adopted on January 7, 2005. Finally, ADEQ recommended enhanced enforcement of Rule 316 but did not specify how it was to be achieved.[14]

1. Rule Revisions and New Rule

In revising Rule 316, MCAQD expanded the rule's coverage to include area sources [15] and incorporated additional control measures based on ADEQ's recommendations as well as requirements contained in SCAQMD Rule 1157. As adopted on June 8, 2005, the rule includes the following requirements for nonmetallic mineral processing sources: Opacity standards ranging from 7% to 20% for various nonmetallic mineral processes; venting of stack emissions to a properly sized fabric filter baghouse and compliance with 7% opacity; enclosure on the sides of all shaker screens; and a permanently mounted watering system for crushing and screening inlets and outlets. Additional specific controls and performance standards apply to asphaltic concrete plants and concrete plants and/or bagging operations. With respect to area sources located at nonmetallic mineral processing facilities, Rule 316 requires specific work practice and performance standards for unpaved roads, unpaved parking/staging areas, open storage piles and active material handling, trackout onto paved public access roads,

[5] CAA section 110(l) prohibits us from approving a revision to the applicable implementation plan if that revision would interfere with any applicable requirement of the Act. CAA section 193 prohibits us under certain circumstances from approving a revision to the applicable implementation plan unless the modification insures equivalent or greater emissions reductions.

[6] Based on an emissions inventory and modeling for the Salt River area, ADEQ estimates that industrial sources contributed approximately 26 percent to 2002 average low-wind day exceedences (with a highest contribution of 60 $\mu g/m^3$ at a single monitor) and 16 percent to 2002 exceedences on days with wind speeds over 15 miles per hour (with a highest contribution of 58 $\mu g/m^3$ at a single monitor). Salt River plan, Table 4.2.1, and Salt River TSD, Table 6–8. This estimate excludes industrial source trackout which is quantified in the paved road re-entrained dust source category.

[7] EPA approved a version of Rule 316 adopted on April 21, 1999. 66 FR 730 (January 4, 2001). We were not required to evaluate the rule for BACT because the sources to which it applied were not deemed significant at the time. We did, however, determine that the rule met the CAA requirements for Reasonably Available Control Technology (RACT). See 65 FR 42649, 42651 (July 11, 2000).

[8] Salt River plan, pg. 70.

[9] Rule 325 only applies to stationary sources, as opposed to area sources. Area sources located at facilities subject to Rule 325 are subject to Rule 310 fugitive dust requirements.

[10] Salt River plan, Appendix C.

[11] Salt River plan, Chapter 4, section 4.3.4.

[12] Ibid., Tables 4.3.4.7 through 4.3.4.12.

[13] Ibid., Appendix B, Revision to Maricopa County Rule 316 Nonmetallic Mineral and Processing, Appendix 2, ''Notice of Final Rulemaking, Maricopa County Air Pollution Regulations, Regulation III, Rule 316—Nonmetallic Mineral Processing''.

[14] Salt River plan, pgs. 56 and 78.

[15] Historically, Rule 316 has contained only emission limitations and not fugitive dust control measures specific to area sources located at nonmetallic mineral processing plants and rock processing plants. Facilities subject to Rule 316 have been required to comply with fugitive dust control measures in Rule 310. MCAQD revisions to Rule 316 include control measures specific to fugitive dust sources at these facilities. Sources subject to specific control measures in Rule 316 are no longer subject to Rule 310 while sources not subject to specific Rule 316 control measures are still subject to Rule 310. EPA approved Rule 310, which covers certain industrial area sources, as meeting the CAA's BACM and MSM requirements. 67 FR 48718, 48739. However, new information in the Salt River plan demonstrates a relatively large contribution of industrial area sources to Salt River PM–10 exceedences which warrants an updated BACM/BACT and MSM demonstration for all such sources.

cleaning of internal paved roads, and bulk material hauling/transporting.

As adopted on August 10, 2005, new Rule 325 includes the following requirements for brick and structural clay product manufacturing sources: A 20% opacity standard; a limit of 0.42 lbs of particulate matter per ton of fired product from existing tunnel kilns with a capacity of > 1 ton per hour throughput and new or reconstructed tunnel kilns with a capacity of < 10 tons per hour throughput; and a limit of 0.12 lbs of particulate matter per ton of fired product from new or reconstructed tunnel kilns with a capacity of ≥ 10 tons per hour throughput.

We have evaluated Rule 316 and Rule 325 requirements to determine whether they represent BACM/BACT and MSM. As part of this evaluation, we considered ADEQ's BACM/BACT and MSM analysis and associated recommended control measures, along with reasoned justifications for measures not recommended.[16] We compared ADEQ's recommended measures against the actual measures adopted into Rule 316 and Rule 325. In addition, we compared Rule 316 requirements to those adopted in SCAQMD Rule 1157 and compared Rule 325 requirements to EPA's New Source Performance Standards for clay manufacturing kilns.[17]

With respect to BACM/BACT, we found that Rule 316 and Rule 325 meet BACT requirements for stationary sources. We also found that the Rule 316 requirements satisfy BACM for area sources and are equally or more stringent relative to the Rule 310 requirements we have approved as BACM. With respect to MSM, we found that Rule 316 and Rule 325 measures are equally or more stringent relative to similar adopted requirements in rules applicable in other PM–10 nonattainment areas. We also found Rule 316 and Rule 325 requirements to be consistent with our enforceability criteria.

As noted above, the CAA requires BACM/BACT to be implemented as expeditiously as practicable. Most of the requirements in Rule 316 were effective as of the June 8, 2005 adoption date and all of the requirements are currently applicable. With respect to Rule 325, compliance with the rule is not required until December 31, 2006. MCAQD provided adequate justification for this implementation date based on substantial annualized capital investment costs required of facilities subject to the rule for the purchase of necessary emissions control equipment.

2. Enforcement Resources and Methods

The basic elements of MCAQD's enforcement program include permit review, facility inspections, source testing of equipment, and review of records and activities. MCAQD's enforcement options include orders of abatement, civil actions for injunctive relief or civil penalties, and class 1 misdemeanor citations.[18]

In addressing ADEQ's recommendation for enhanced Rule 316 enforcement, MCAQD committed to increase the inspection frequency for Rule 316 sources from once every two years to four times per year beginning on July 1, 2005.[19] We consider enforcement resources to be part of the CAA section 189(b) requirement that serious area PM–10 plans include provisions to assure the implementation of BACM. MCAQD conducted a workload analysis for the increased Rule 316 inspection frequency based on the number of permitted sources in fiscal year 2004 and determined that one additional inspector and an additional supervisor are needed.[20] This would increase the number of MCAQD inspectors dedicated to non-Title V and general permitted stationary sources, which includes Rule 316 and Rule 325 sources, from seven to eight. In evaluating the level of enforcement resources dedicated to Rule 316 and Rule 325, we consider the number of MCAQD permits associated with facilities subject to these rules. MCAQD issued 107 permits for Rule 316 sources in 2004. Rule 325 applies to two brick and clay structural facilities and one tunnel kiln.[21]

3. Conclusion

In evaluating MCAQD Rules 316 and 325, we have found that they meet the BACM/BACT and MSM requirements of CAA sections 189(b)(1)(B) and 188(e), respectively, and that MCAQD enforcement resources are adequate to provide for the implementation of BACM. We have also found these rules to be consistent with our policy and guidance regarding enforceability and SIP relaxations. Because we believe that Rule 316 and Rule 325 fulfill all relevant requirements, we propose to approve them and the Maricopa County Board Resolution No. C–85–05–005–0–00[22] under CAA section 110(k)(3) as meeting the requirements of CAA sections 189(b)(1)(B) and 188(e). Our detailed analysis of Rule 316 and Rule 325 requirements can be found in the TSD associated with this proposed rule.

C. Rules 310 and 310.01 and Related Submittals

ADEQ identifies construction sources, vacant lots, and miscellaneous disturbed areas as significant contributors to PM–10 24-hour exceedences at the Salt River monitors.[23] Rule 310 applies to dust generating operations including construction/earthmoving and demolition sites. Rule 310.01 applies to vacant lots and miscellaneous disturbed areas, among other sources, which are not subject to Rule 310. Performance standards and test methods for opacity and surface stabilization for Rule 310 and Rule 310.01 sources are found in Appendix C ''Fugitive Dust Test Methods'' of MCAQD Regulation III. Rule 310 also requires construction site owners/operators to develop dust control plans subject to MCAQD approval. MCAQD's ''Application for Dust Control Permit'' and ''Guidance for Application for Dust Control Permit'' provide supplemental information on MCAQD's implementation of the Rule 310 dust control plan requirements.[24]

Upon assessing the contribution of construction sites, vacant lots, and miscellaneous disturbed areas to Salt River exceedences, ADEQ identified a critical need for additional inspectors to enforce Rule 310 and Rule 310.01

[16] Op. Cit., Tables 4.3.4.7 through 4.3.4.13 and accompanying text.

[17] 40 CFR 63.8555(a), subpart KKKKK, table 1 and 40 CFR 63.8405(a), subpart JJJJ, table 1.

[18] Ibid., Maricopa County Board Resolution No. C–85–05–005–0–00, Measures 2 and 4.

[19] Salt River TSD, Appendix D, Maricopa County Board Resolution No. C–85–05–005–0–00, Measure 2.

[20] ''Workload Analysis for Rule 316 Permitted Sources'' is included in the docket associated with this proposed rule. This analysis specifies that the four annual inspections will consist of one full inspection and three partial inspections. A partial inspection involves checking compliance with fugitive dust controls but not necessarily process equipment unless an obvious problem is observed.

[21] Salt River plan, Appendix B, Notice of Final Rulemaking, Rule 325, August 10, 2005, pg. 3450.

[22] Measures 2 and 4 of the Maricopa County Board Resolution are relevant to Rule 316 and Rule 325 sources, respectively.

[23] Based on an emissions inventory and modeling for the Salt River area, ADEQ estimates that construction sources contributed 5.8 percent to 2002 average low-wind day exceedences and 4.4 percent to 2002 exceedences on days with wind speeds over 15 miles per hour (with a highest contribution of 18 $\mu g/m^3$ at a single monitor). These estimates exclude construction-related trackout which is quantified in the paved road re-entrained dust source category. ADEQ estimates that vacant lots and miscellaneous disturbed areas contributed approximately 26 percent to 2002 exceedences on days with wind speeds over 15 miles per hour (with a highest contribution of 52 $\mu g/m^3$ at a single monitor). Salt River plan, Table 4.2.1, and Salt River TSD, Table 6–8.

[24] On July 25, 2002, we approved Rule 310, Rule 310.01 and Appendix C ''Fugitive Dust Test Methods'' of MCAQD Regulation III as meeting the CAA's BACM and MSM requirements.

requirements.[25] EPA last evaluated enforcement resources for Rule 310 and Rule 310.01 sources in 2001.[26] We agree with ADEQ's assessment that the continuing significant contribution of these sources to PM–10 exceedences in the Salt River area (and other sites in the Phoenix PM–10 nonattainment area with similar sources) warrants an updated evaluation of enforcement resources designed to ensure compliance with Rule 310 and Rule 310.01 requirements.

ADEQ did not identify a need for revisions to the requirements of Rule 310 and Rule 310.01 [27] beyond fulfilling three MCAQD commitments associated with EPA's BACM and MSM approval for construction sources.[28] These commitments include (1) adding a modified opacity standard/test method to Appendix C tailored to non-process fugitive dust sources that create intermittent plumes; (2) incorporating additional requirements for dust suppression practices/equipment into dust control plans and/or Rule 310; [29] and (3) revising and distributing the sample daily recordkeeping logs for Rule 310 sources to be consistent with rule revisions and to provide sufficient detail documenting dust control measure implementation.

1. Rule Revisions and New Rule

In addressing the BACM and MSM commitments for construction sources in the MAG plan, MCAQD adopted Appendix F of Regulation III on April 7, 2004, revised subsection 3.3.2 of Appendix C of Regulation III and subsections 304.5 and 502 of Rule 310 on April 7, 2004, and revised the Application for Dust Control Permit and the Guidance for Application for Dust Control Permit on July 1, 2005. We have evaluated these submittals for consistency with the BACM and MSM commitments we approved in the MAG plan and our general requirements in CAA section 110.

MCAQD also strengthened and clarified certain requirements in Rule 310 and Appendix C (adopted on April 7, 2004) and in Rule 310.01 (adopted on February 17, 2005). We have evaluated these revisions for consistency with our general requirements in CAA section 110.

Specific MCAQD revisions intended to fulfill the three MAG plan commitments are as follows: In order to meet the commitment concerning Appendix C, MCAQD adopted an opacity test method into Appendix C that is tailored to address intermittent plumes from non-process fugitive dust sources at construction sites.[30] With respect to the commitment to incorporate additional dust suppression practices/equipment into dust control plans and/or Rule 310, MCAQD: (a) Adopted Appendix F which classifies soils into four types based on their PM–10 emissions potential and contains a map delineating the locations in the Phoenix PM–10 nonattainment area of these soil types; (b) revised Rule 310, subsection 304.5, to require that dust control plans disclose which of the four designated soil types described in Appendix F (or as measured at a particular site) is naturally present at or will be imported to the dust generating operation; and (c) added minimum criteria in the Application for Dust Control Permit and Guidance for Application for Dust Control Permit for the amount of water that needs to be available (i.e., water supply in conjunction with water application system) for sites with soils classified in Appendix F as ''moderate'' or ''severe''.[31] These criteria apply to individual permits subject to review and approval by MCAQD.[32] Finally, to meet the commitment concerning recordkeeping requirements, MCAQD revised subsection 502 of Rule 310 to include examples of dust suppression activities for which recordkeeping is required. MCAQD also revised its sample daily recordkeeping logs which are available on MCAQD's Web site to provide various formats for documenting application of measures for specific types of dust generating sources.

Other MCAQD revisions to Rule 310, Rule 310.01, and Appendix C consist of strengthenings and clarifications of existing SIP-approved requirements.[33]

Our detailed evaluation of these submittals can be found in the TSD associated with this proposed rule.

2. Enforcement Resources and Methods

With respect to enforcement resources dedicated to inspecting sources subject to Rule 310 and Rule 310.01, MCAQD conducted a 2005/06 workload analysis of its earthmoving and vacant lot programs and also created an inspection priority plan for Rule 310.01 sources.[34] Maricopa County Board Resolution No. C–85–05–005–0–00,[35] adopted on January 19, 2005, commits MCAQD to increase the number of inspectors dedicated to Rule 310 and Rule 310.01 enforcement, along with other measures designed to improve source compliance. Specifically, the Maricopa County Board Resolution No. C–85–05–005–0–00 commitments include:

(a) Hire ten additional inspectors to enforce MCAQD Rule 310.01 by August 2005; [36]

(b) Develop and submit to EPA by March 2005 an inspection priority plan for vacant lots/open areas and unpaved parking lots in the PM–10 nonattainment area; [37]

(c) Conduct inspections on all vacant lots/open areas, including alluvial channels,[38] in the Salt River area by October 2006 with periodic follow-up inspections;

(d) Hire an additional twelve inspectors, four supervisors, and three support staff by June 2005 to work proactively and directly on compliance and enforcement of the Rule 310 earthmoving fugitive dust program; [39] and

(e) Complete a user fee analysis and have new fees considered by the Board of Supervisors in January 2005 to be effective no later than July 1, 2005, to permanently fund the nineteen Rule 310 positions.[40]

In reviewing the adequacy of these commitments, we compare them to

[25] Salt River plan, pg. 29.

[26] 66 FR 50252, 50271–50273.

[27] One exception is that ADEQ recommended wind breaks as an additional control measure for Rule 310.01 in conjunction with existing measures requiring surface stabilization. We consider this optional but not necessary to meet BACM because the rule relies on surface stabilization standards to demonstrate compliance and the emissions reduction potential of wind breaks is less certain. Also, wind breaks are not economically feasible in all circumstances.

[28] 66 FR 50252, 50256–50257. The commitments are contained in the MAG plan approved by EPA. See footnote 1.

[29] MCAQD also committed to raise awareness of on-site supervisors of dust control plans through contact during inspections and a revised training curriculum.

[30] Appendix C, section 3.3.2.

[31] The criteria apply where water is not combined with a chemical or organic dust suppressant.

[32] We also note that MCAQD addressed its commitment to raise awareness of on-site supervisors of dust control plans by providing an online construction guide and instructing its inspectors to review dust control plans with construction site personnel upon initial and subsequent inspections.

[33] See EPA's TSD associated with this proposed action, section D.3.b.

[34] Salt River plan, Appendix F, Enclosures 1 and 2.

[35] Salt River plan, Appendix D.

[36] As of April 2006, MCAQD had hired all ten of the Rule 310.01 inspectors.

[37] MCAQD developed an inspection priority plan that is included in the Salt River plan.

[38] Alluvial channels in the Salt River area consist of a dry riverbed subject to Rule 310.01.

[39] As of October 2005, MCAQD had hired all twelve of the additional Rule 310 inspectors, the four supervisors, and two of the support staff. MCAQD expects to hire the third support staff shortly. The support staff position does not affect field enforcement efforts.

[40] This commitment has been met through MCAQD's adoption of a revised Rule 280 ''Fees'' on May 18, 2005, with an effective date of July 1, 2005.

enforcement provisions in the currently applicable Phoenix PM–10 SIP.[41] The MAG plan provides for eight fugitive dust inspectors to implement MCAQD's fugitive dust rules. Because the January 2005 Maricopa County Board Resolution provides for an additional twenty-two inspectors to implement MCAQD's fugitive dust rules, this represents a significant increase in personnel resources. The number of additional inspectors needed is based on MCAQD's projected fiscal year 2005/06 workload analysis for its earthmoving and vacant lot programs which accounts for the number of vacant parcels in the Phoenix area and the number of Rule 310 permits, which have increased since 2000.[42]

MCAQD's inspection priority plan for vacant lots/open areas and unpaved parking lots provides for identification of these sources through complaint investigations, field observations, soil maps, the Maricopa County Assessor Geographic Information Systems Web site, and/or aerial photographs. The plan provides for site inspections to be prioritized based on complaint investigations, location within the Salt River area, soil texture potential for wind erosion, size (lots in excess of 10 acres), location within the PM–10 nonattainment area, and location in proximity to sensitive receptors (e.g., schools).[43] The inspection priority plan also provides for an inspection rotation/re-inspection electronic database to rate the dust generating potential of vacant lots/open areas based on criteria such as lot size and compliance history to assist in the scheduling and prioritizing of sites for re-inspection. The inspection priority plan is currently in effect.

The MAG plan does not contain specific criteria for prioritizing vacant lot/open area and unpaved parking lot inspections. Thus, the MCAQD inspection priority plan for these sources would strengthen the SIP.

We described the basic elements of MCAQD's enforcement program in section III.B.2 of this proposed rule.

3. Conclusion

We have found that the January 2005 Maricopa County Board Resolution enforcement resource commitments for Rule 310 and Rule 310.01 adequately provide for the implementation of the BACM requirements in those rules by substantially increasing the number of inspectors and associated personnel for enforcing fugitive dust requirements. We have found that other enforcement-related commitments would strengthen the SIP.

We have reviewed the MCAQD submittals that address the three commitments in the approved MAG plan for construction sources[44] and have found that they are consistent with the BACM and MSM requirements of CAA sections 189(b)(1)(B) and 188(e), respectively, and also are consistent with our policy and guidance regarding enforceability and SIP relaxations. Finally, we have determined that other revisions to Rule 310 and Rule 310.01 and would strengthen the SIP and are consistent with our policy and guidance regarding enforceability and SIP relaxations.

Therefore, we propose to approve Rule 310, Rule 310.01, Maricopa County Board Resolution No. C–85–05–005–0–00,[45] Appendix C, Appendix F, ''Application for Dust Control Permit'', and ''Guidance for Application for Dust Control Permit'' under CAA section 110(k)(3). We propose to approve sections 304.5 and 502 of Rule 310, section 3.3.2 of Appendix C, Appendix F, and the enforcement resource provisions of Measures 1 and 3 of Resolution C–85–05–005–0–00 as meeting the BACM and MSM requirements of sections 189(b)(1)(B) and 188(e). We propose to approve Section 2, subsections 10 and 11, and Section 3, subsection I of the Application for Dust Control Permit as meeting the BACM and MSM requirements of sections 189(b)(1)(B) and 188(e). We propose to approve Section 2, subsection 13, and Section 3 of the Guidance for Application for Dust Control Permit as meeting the BACM and MSM requirements of sections 189(b)(1)(B) and 188(e). We propose to approve all other revisions to these rules, Resolution, Application for Dust Control Permit and Guidance for Application for Dust Control Permit as SIP strengthenings.

D. City of Phoenix Alluvial Channels Commitment

The Salt River area contains dry river channels comprised of alluvial soils. ADEQ assessed the PM–10 impact of alluvial channels in the Salt River area, and found that they contribute significantly to wind-driven exceedences.[46] In assessing the wind erosion potential of alluvial channel soils, ADEQ found that some soils have particularly high-emitting potential relative to average vacant land soils. The City of Phoenix owns a substantial amount of alluvial channel land in the Salt River area.

Alluvial channels are subject to MCAQD Rule 310.01 requirements. ADEQ's recommended approach to addressing alluvial channels throughout the nonattainment area is the same as that for vacant lots/open areas and miscellaneous disturbed surfaces, which is increasing enforcement of Rule 310.01 requirements through the hiring of additional MCAQD inspectors.[47] We have addressed this measure in section III.C.2 of this proposed rule.

ADEQ notes that one of the most effective control methods that can be applied to alluvial channels is establishing barriers to prevent vehicle trespass in combination with stabilization of soils. In order to maximize compliance with Rule 310.01 requirements on its alluvial channel land, the City of Phoenix adopted Resolution No. 20114 on June 16, 2004, which outlines a plan for dust control measures on alluvial channels in the Salt River area.[48] Specifically, the City of Phoenix committed to ''develop and implement a program to control vehicle trespass on City-owned vacant land to address particulate emissions and criminal activity. These lands may include dry river beds, washes, and other open areas where significant trespass occurs. Measures to reduce trespass may include signs, increased police enforcement, such as barriers, fences, berms or other measures. Measures may include stabilization of disturbed soils where feasible.'' The City of Phoenix budgeted $200,000 in fiscal year 2005/06 to implement this measure. The Salt River plan contains a 2004 milestone progress report which

[41] MAG plan, Commitments for Implementation, Volume Four, Maricopa County, Fourth Submittal, Exhibit A, Revised Measure 6 of Resolution No. C 88–00–017–6–A2128, adopted December 15, 1999.

[42] MCAQD was responsible for the issuance of 2,500 earthmoving permits in 2000 (Salt River plan, pg. 29), which have increased to 4,548 permits projected for fiscal year 2005/06 according to MCAQD's workload analysis. The workload analysis staffing conclusions are based on accommodating 9,152 inspections per year of Rule 310 sources and 4,587 inspections per year of Rule 310.01 sources.

[43] We note that lots less than ten acres or that are otherwise not prioritized in MCAQD's inspection priority plan are still subject to proactive inspections. However these lots will receive a lower priority than those meeting the plan's criteria.

[44] These include revisions to Rule 310 (subsections 304.5 and 502), Appendix C, Application for Dust Control Permit, Guidance for Application for Dust Control Permit, and the newly submitted Appendix F.

[45] Measures 1 and 3 of the Maricopa County Board Resolution are relevant to Rule 310.01 and Rule 310 sources, respectively.

[46] Salt River plan, Table 4.2.1. ADEQ estimates that alluvial channels contributed approximately 15 percent to 2002 average exceedences on days with wind speeds over 15 miles per hour (with a highest contribution of 80 $\mu g/m^3$ at a single monitor).

[47] Salt River plan, pgs. 32 and 41.

[48] Ibid., Appendix D, City of Phoenix Resolution No. 20114, Measure 04–DC–3.

specifies City of Phoenix actions to prevent trespass and stabilize soils on City-owned alluvial channel lands.[49]

Because we believe the City of Phoenix Resolution No. 20114, Measure 04–DC–3, strengthens the SIP and is consistent with our policy and guidance regarding enforceability and SIP relaxations, we propose to approve it under CAA section 110(k)(3) as a SIP strengthening.

E. Municipality, County, and State Paved Road Re-Entrained Dust Commitments

ADEQ identifies paved road re-entrained dust as a significant contributor to PM–10 24-hour exceedences at the Salt River monitors.[50] In evaluating sources responsible for paved road dust emissions in the Salt River area, ADEQ found the most significant sources of dust loading on paved roads to be from windblown emissions, soil trackout, and emissions from earthmoving and other dust generating processes in areas of high industrial, construction, and agricultural activity.[51] In order to address the largest sources of the problem, ADEQ recommended enhanced enforcement of Rule 310 and Rule 316 and the adoption of specific Rule 316 requirements for control of trackout.[52] We have addressed these recommendations in sections III.B.2 and C.2 of this proposed rule.

ADEQ also recommended enhanced street sweeping with PM–10 efficient sweepers of paved road segments that typically experience a high level of soil and dust deposition,[53] e.g., in locations with high industrial, construction, and agricultural activity.[54]

Eighteen municipalities in the Phoenix PM–10 nonattainment area, Maricopa County Department of Transportation and the Arizona Department of Transportation adopted resolutions [55] in 2004 and 2005 that address the purchase/use of additional PM–10 efficient street sweepers and more frequent, targeted street sweeping. These resolutions largely reflect a model protocol developed by MAG containing the following four elements: Targeting ''high dust'' arterials and collectors and increasing sweeping frequencies with PM–10 efficient sweepers; describing how the protocol constitutes an enhancement or improvement over previously adopted commitments contained in the MAG plan; addressing trackout associated with facilities and activities regulated by Maricopa County by notifying the County when rule violations are observed, and; providing for annual reevaluation of the protocol.

As an example of specific measures resulting from adopted municipal resolutions, the City of Phoenix developed a protocol to comply with its adopted Resolution No. 20114, Measure 04–DC–1. The protocol specifies that street sweeping schedules will increase from the current 14-day sweeping cycle to a 7-day cycle in a targeted area, defined as bounded by Van Buren Street, Baseline Road, 10th Street, and 59th Avenue in the Salt River area.[56] Also, the City reports that its entire fleet of street sweepers are now PM–10 efficient.[57]

In addition, the City of Phoenix included $330,000 in its 2004/05 budget for the purchase of two street sweepers [58] and provides for street improvements (i.e., curb and gutter) on approximately 0.8 mile of 43rd Avenue between Lower Buckeye Road and the Salt River.[59]

MCDOT adopted the following street sweeping protocol: [60]

(a) Identify and target arterial and collector ''high dust'' roads through routine field supervisor roadway inspections and sweep such roads at least three times per month.[61]

(b) Sweep all targeted roads with certified PM–10 efficient street sweepers by February 2, 2005.

(c) Have all MCDOT field inspectors and supervisors report trackout associated with facilities and activities regulated by Maricopa County to MCAQD when rule violations are observed.

(d) Re-evaluate the protocol annually to ascertain its effectiveness, update the list of roads swept with increased frequency, and submit this list to MCAQD annually.

Because we believe the municipal, County,[62] and State resolutions strengthen the SIP and are consistent with our policy and guidance regarding enforceability and SIP relaxations, we propose to approve them under CAA section 110(k)(3) as SIP strengthenings.

IV. Statutory and Executive Order Reviews

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. 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 proposed action merely proposes to approve 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).

[49] Salt River plan, Appendix E, Table 3. Concentrated enforcement efforts on alluvial channels in the Salt River area from July through November 2004 resulted in fifty-five citations and 220 warnings. Vehicle trespass dropped to zero to two vehicles in December and pedestrian trespassers dropped from forty-five to eight per weekend. Thirty ''no trespass'' signs were installed and maintained. Three-hundred and thirty tons of trash and over 2,000 tires were removed by contractors from the upper riverbank and a thick layer of mulch was applied to twelve acres. Contractors have secured 1,800 feet of fences and berms to prevent trespass along Broadway Road since July 2004. The City treated the entire length of berm on its property with polymer stabilizer. One-thousand, one-hundred feet of guardrail on West side of 35th Avenue have been installed. Installation of concrete barriers at all four corners of the 51st Avenue bridge began in January 2005. Rains in January 2005 formed a crust in the alluvial channel.

[50] Salt River plan, Table 4.2.1. ADEQ estimates that paved road re-entrained dust contributed approximately 64 percent to 2002 average low-wind day exceedences (with a highest concentration of 74 $\mu g/m^3$ at a single monitor) and 13.5 percent to 2002 average exceedences on days with wind speeds over 15 miles per hour (with a highest concentration of 43 $\mu g/m^3$ at a single monitor).

[51] Salt River plan, pg. 72.

[52] Ibid., pg. 78.

[53] Ibid., pg. 79.

[54] EPA approved a variety of paved road re-entrained dust measures on July 25, 2002 as meeting the CAA's BACM and MSM requirements, including city, County, and State resolutions addressing street sweeping. The SIP-approved MAG plan does not contain measures for targeted street sweeping, using PM–10 efficient street sweepers, on road segments identified as having particularly high emissions potential.

[55] Salt River plan, Appendix D.

[56] ''City of Phoenix 2004 Protocol & Implementation Plan For Paved Streets With Potential for Dust Emissions'', Salt River plan, Appendix D.

[57] Ibid., pg. 5.

[58] Salt River plan, Appendix D, City of Phoenix Resolution No. 20114, Measure 04–DC–1.

[59] Ibid., Measure 04–DC–2.

[60] Salt River plan, Appendix D, Maricopa County Resolution No. C–85–05–005–0–00, Measure 5.

[61] The protocol indicates that this sweeping frequency is double the previous frequency.

[62] Measure 5 of the Maricopa County Board Resolution contains the relevant street sweeping commitment.

This proposed 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 proposes to approve 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 ''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 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: June 30, 2006.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 06–6111 Filed 7–11–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–OAR–2006–0098; FRL–8191–7]

40 CFR Part 52

RIN 2008–AA00

Federal Implementation Plan for the Billings/Laurel, Montana, Sulfur Dioxide Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to promulgate a Federal Implementation Plan (FIP) containing emission limits and compliance determining methods for several sources located in Billings and Laurel, Montana. EPA is proposing a FIP because of our previous partial and limited disapprovals of the Billings/Laurel Sulfur Dioxide (SO_2) SIP. The intended effect of this action is to assure attainment of the SO_2 national ambient air quality standard (NAAQS) in the Billings/Laurel, Montana area. EPA is taking this action under sections 110 and 307 of the Clean Air Act (Act).

DATES: *Comments:* Comments on the proposal must be received on or before September 11, 2006.

Public Hearing: If requested by July 26, 2006, EPA will hold a public hearing on August 10, 2006. If a public hearing is requested, EPA will hold the public hearing at the following time and location: 9 a.m. to 2 p.m. at the Lewis and Clark Room, MSU—Billings, 1500 University Drive, Billings, Montana. The purpose of such a hearing would be for EPA to receive comments and ask clarifying questions. The hearing would not be an opportunity for questioning of EPA officials or employees. Call the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you would like to request a hearing, schedule time to speak at the hearing, or confirm whether a hearing will occur. If a hearing is held, speakers will be limited to 10 minutes. It would be helpful, but it is not required, if speakers bring a written copy of their comments to leave with us.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2006–0098, by one of the following methods:

- *Http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: long.richard@epa.gov* and *ostrand.laurie@epa.gov*.
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 999 18th Street, Suite 200, Denver, Colorado 80202–2466.
- *Hand Delivery:* Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 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–2006–0098. 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 e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' systems, 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 e-mail comment directly to EPA, without going through *http://www.regulations.gov* your e-mail 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 information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. 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://*