

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions.* *Captain of the Port Baltimore* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

*Designated representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement periods.* This section will be enforced:

(1) From 6 p.m. through 8:30 p.m. on November 19, 2009, and if necessary due to inclement weather, from 6 p.m. through 8:30 p.m. on November 20, 2009; and

(2) From 5:30 p.m. through 8 p.m. on November 27, 2009, and if necessary due to inclement weather, from 5:30 p.m. through 8 p.m. on November 28, 2009.

Dated: October 23, 2009.  
**Mark P. O'Malley,**  
*Captain, U.S. Coast Guard, Captain of the Port Baltimore, Maryland.*  
 [FR Doc. E9-27220 Filed 11-12-09; 8:45 am]  
**BILLING CODE 4910-15-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2009-0558; FRL-8975-6]

**Revisions to the Arizona State PM-10 Implementation Plan; Maricopa County Air Quality Department**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Maricopa Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on August 26, 2009 and concern particulate matter (PM) emissions from non-metallic mineral mining and processing in the Maricopa County (Phoenix) serious PM-10 nonattainment area. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on January 8, 2010.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2009-0558 for this action. The index to the docket is available electronically at <http://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 location (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.

**FOR FURTHER INFORMATION CONTACT:** Sona Chilingaryan, EPA Region IX, (415) 972-3368, [chilingaryan.sona@epa.gov](mailto:chilingaryan.sona@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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**I. Proposed Action**

On August 26, 2009 (74 FR 43085), EPA proposed to approve the following rule into the Arizona SIP.

Local agency	Rule #	Rule title	Adopted	Submitted
MCAQD .....	316	Nonmetallic Mineral Processing .....	3/12/08	7/10/08

We proposed to approve this rule because we determined that it complied with the CAA requirements for Best Available Control Measures (Section 189(b)(1)(B)) and Most Stringent Measures (Section 188(e)). Our proposed action contains more information on the rule and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Lawrence Odle, Director, MCAQD; letter dated September 23, 2009 and received September 25, 2009.
2. Joy E. Herr-Cardillo, Staff Attorney, Arizona Center for Law in the Public Interest (ACLPI); letter dated and received on September 25, 2009.

The comments and our responses are summarized below.

*Comment #1:* MCAQD supports our proposed approval of 316.

*Response #1:* No response necessary.

*Comment #2:* MCAQD provides information related to MCAQD’s current efforts and future plans to improve and clarify Rule 316. MCAQD has initiated a rulemaking process to revise the rule to include alternative control measures approved by MCAQD and EPA, has formed a working group to evaluate the Department’s experience with the moisture testing and sampling protocols related to the rule, and plans to separate the requirements in Rule 316 for different kinds of facilities into five separate rules. In the current rulemaking, the Department intends to separate product transfer and distribution facilities out of Rule 316, and in the future also plans to separate asphaltic concrete batch plants, concrete batch plants, inert landfills, and gypsum and all types of mulch.

*Response #2:* This comment addresses MCAQD’s future plans and was provided for information purposes only. It does not affect EPA’s proposed action on the March 12, 2008 version of Rule 316, and no further response is necessary.

*Comment #3:* MCAQD comments that Table 1 in 74 FR 43085 incorrectly refers to 3/10/08 as the adoption date for the rule, and notes that the correct date is 3/12/08.

*Response #3:* We agree. There was a typographical error in the adoption date. We do not believe this error is likely to result in significant confusion since only one version of the rule was adopted in 2008, and the previous version was adopted in 2005.

*Comment #4:* ACLPI comments that in August 2009 it notified us of its intent to take legal action against EPA for failure to act on Rule 316. ACLPI supports the proposed approval and the increased stringency of Rule 316.

Comment #4: No response necessary.

**III. EPA Action**

No comments were submitted that change our assessment that the submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving this rule into the Arizona SIP as meeting the requirements of sections 189(b)(1)(B) and 188(e).

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action and other required information to the U.S. Senate, the U.S. 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 12, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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* section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 5, 2009.

**Jane Diamond,**

*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)(141)(i)(B)(2) to read as follows:

**§ 52.120 Identification of plan.**

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* * * * *
(c) * * *
(141) * * *
(i) * * *
(B) * * *
(2) Rule 316, "Nonmetallic Mineral Processing," adopted on
March 12, 2008.
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[FR Doc. E9-27046 Filed 11-12-09; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-1983-0002; FRL-8979-2]

**National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List: Partial Deletion of the California Gulch Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 is publishing a direct final rule, a Notice of Partial Deletion of the California Gulch Superfund Site (Site), located in Lake County, Colorado, including all of Operable Unit 8 (OU8), from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE) because EPA has determined that all appropriate response actions at these identified parcels under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this partial deletion does not preclude future actions under Superfund.

This partial deletion pertains to all of OU8 including the impounded tailing, non-residential area soils, waste rock, fluvial tailing and stream sediment. The