

requester has a commercial interest that would be furthered by the requested disclosure. The FOIA Officer shall consider any commercial interest of the requester (with reference to the definition of "commercial use" in paragraph (b)(2) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters shall be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) *The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."* A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The FOIA Officer ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(5) Where only some of the records to be released satisfy the requirements for a waiver of fees, a fee waiver will be granted only for those records which so qualify.

(6) Requests for the waiver or reduction of fees should address the factors listed in paragraph (n)(3) and (4) of this section, insofar as they apply to each request. FOIA Officers will exercise their discretion to consider the cost-effectiveness of their investment of administrative resources in this decision-making process, however, in deciding to grant waivers or reductions of fees.

(7) An appeal from an adverse fee determination will be processed in accordance with § 1.559.

(8) When considering a request for fee waiver, VA may require proof of identity.

#### § 1.562 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

(Authority: Sections 1.550 to 1.562 issued under 72 Stat. 1114; 38 U.S.C. 501)

## PART 2—DELEGATIONS OF AUTHORITY

11. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections noted.)

12. Revise paragraph (e)(10) of § 2.6 to read as follows:

#### § 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

\* \* \* \* \*

(e) \* \* \*  
(10) The General Counsel, Deputy General Counsel, and the Assistant General Counsel for Professional Staff Group IV are authorized to make final Departmental decisions on appeals under the Freedom of Information Act, the Privacy Act, and 38 U.S.C. 5701, 5705 and 7332.

**Authority:** 38 U.S.C. 512  
\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2010-0715; FRL-9214-3]

#### Approval and Promulgation of Implementation Plans—Maricopa County (Phoenix) PM-10 Nonattainment Area; Serious Area Plan for Attainment of the 24-Hour PM-10 Standard; Clean Air Act Section 189(d)

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On September 9, 2010 (75 FR 54806), EPA published a proposed rule proposing to approve in part and disapprove in part State implementation plan (SIP) revisions submitted by the State of Arizona to meet, among other requirements, section 189(d) of the Clean Air Act (CAA) for the serious Maricopa County (Phoenix) nonattainment area (Maricopa area). Specifically, EPA proposed to disapprove provisions of the 189(d) plan because they do not meet applicable CAA requirements for emissions inventories as well as for attainment, five percent annual emission reductions, reasonable further progress and milestones, and contingency measures. EPA also proposed to disapprove the 2010 motor vehicle

emission budget in the 189(d) plan as not meeting the requirements of CAA section 176(c) and 40 CFR 93.118(e)(4). EPA also proposed a limited approval and limited disapproval of State regulations for the control of PM-10 from agricultural sources. Finally, EPA proposed to approve various provisions of State statutes relating to the control of PM-10 emissions in the Maricopa area.

EPA is extending the comment period on the proposed rule from October 12, 2010 to October 20, 2010.

**DATES:** Any comments must arrive by October 20, 2010.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2010-0715, by one of the following methods:

1. *Federal eRulemaking Portal:*

<http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [nudd.gregory@epa.gov](mailto:nudd.gregory@epa.gov).

3. *Mail or deliver:* Gregory Nudd (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 online at <http://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 <http://www.regulations.gov> or e-mail. <http://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 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:** Gregory Nudd, U.S. EPA Region 9, 415-947-4107, [nudd.gregory@epa.gov](mailto:nudd.gregory@epa.gov) or <http://www.epa.gov/region09/air/actions>.

**SUPPLEMENTARY INFORMATION:** On September 9, 2010 (75 FR 54806), EPA published a proposed rule proposing to approve in part and disapprove in part State implementation plan (SIP) revisions submitted by the State of Arizona to meet the Clean Air Act (CAA) requirements applicable to the serious Maricopa County (Phoenix) nonattainment area (Maricopa area). These requirements apply to the Maricopa area following EPA's June 6, 2007 finding that the area failed to meet its December 31, 2006 serious area deadline to attain the national ambient air quality standards (NAAQS) for particulate matter of ten microns or less (PM-10). Under CAA section 189(d), Arizona was required to submit a plan by December 31, 2007 providing for expeditious attainment of the PM-10 NAAQS and for an annual emission reduction in PM-10 or PM-10 precursors of not less than five percent per year until attainment (189(d) plan).

In the Agency's September 9, 2010 proposed rule, EPA proposed to disapprove provisions of the 189(d) plan for the Maricopa area because they do not meet applicable CAA requirements for emissions inventories as well as for attainment, five percent annual emission reductions, reasonable further progress and milestones, and contingency measures, and to disapprove the 2010 motor vehicle emission budget in the 189(d) plan as not meeting the requirements of CAA section 176(c) and 40 CFR 93.118(e)(4). EPA also proposed a limited approval and limited disapproval of State regulations for the control of PM-10 from agricultural sources. Finally, EPA proposed to approve various provisions of State statutes relating to the control of PM-10 emissions in the Maricopa area.

The September 9, 2010 proposed rule provided a 30-day public comment period ending on October 12, 2010. In response to a request for an extension of the comment period from Benjamin H. Grumbles, Director, Arizona Department of Environmental Quality, and Dennis Smith, Executive Director, Maricopa Association of Governments, submitted by letter dated October 4, 2010, EPA is

extending the comment period to October 20, 2010.

Dated: October 7, 2010.

**Jared Blumenfeld,**

*Regional Administrator, EPA Region IX.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1983-0002; FRL-9213-9]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Denver Radium Superfund Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule, extension of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 issued a Notice of Intent to Delete portions of the Denver Radium Superfund Site from the National Priorities List (NPL) on September 9, 2010 (75 FR 54779). The portions proposed for deletion are each of the 11 operable units at the Denver Radium Site, located in the City and County of Denver, Colorado. Groundwater contamination associated with Operable Unit 8 will remain on the NPL. To ensure that everyone has an opportunity to comment, EPA is extending the public comment period through November 1, 2010.

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). The EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), have determined that all appropriate response actions under CERCLA, other than operation, maintenance and five-year reviews have been completed.

This rationale for deleting the 11 operable units of the Denver Radium Superfund Site has not changed. The **Federal Register** notice for the proposed deletion (75 FR 54779) discusses this rationale in detail.

**DATES:** Comments concerning the proposed partial deletion may be submitted to EPA on or before November 5, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-1983-0002, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [dalton.john@epa.gov](mailto:dalton.john@epa.gov).

- *Fax:* 303-312-7110.

- *Mail:* Mr. John Dalton, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand Delivery:* 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at:

—EPA's Region 8 Superfund Records Center, 1595 Wynkoop Street, Denver, Colorado 80202-2466. Hours: 8 a.m. to 4 p.m. by appointment (call 303-312-6473), Monday through Friday, excluding legal holidays; and the —Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80246. Hours: M-F, 8 a.m. to 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Dalton, Community Involvement Coordinator (8OC), U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129; *telephone number:* 1-800-227-8917 or 303-312-6633; *fax number:* 303-312-7110; *e-mail address:* [dalton.john@epa.gov](mailto:dalton.john@epa.gov).

Dated: October 7, 2010.

**James B. Martin,**

*Regional Administrator, Region 8.*

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