

6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's plan and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency,  
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, suite 700,  
Dallas, Texas 75202-2733.

Air and Radiation Docket and  
Information Center, Environmental  
Protection Agency, 401 M Street, SW.,  
Washington, DC 20460.

Texas Natural Resource Conservation  
Commission, Office of Air Quality,  
12124 Park 35 Circle, Austin, TX  
78753.

Anyone wishing to review this plan at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Lt. Mick Cote, Air Planning Section (6PD-L), EPA Region 6, telephone (214) 665-7219.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final rule which is located in the Rules Section of this **Federal Register**.

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping, Ozone, and Volatile organic compounds.

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

Dated: January 9, 1998.

**Lynda F. Carroll,**

*Acting Regional Administrator.*

[FR Doc. 98-3179 Filed 2-6-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ 059-0010; FRL-5965-3]

### Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan, Maricopa County

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of revisions to the Arizona State Implementation Plan (SIP) which concern the control of particulate matter (PM) from residential wood combustion.

The intended effect of proposing limited approval and limited

disapproval of these rules is to regulate PM emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate these rules into the federally approved SIP. EPA has evaluated the rules and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

**DATES:** Comments must be received on or before March 11, 1998.

**ADDRESSES:** *Comments may be mailed to:* Andrew Steckel, Rulemaking Office AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rules and EPA's evaluation report of the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Arizona Department of Environmental Quality, Air Quality Division, 3033 North Central Avenue, Phoenix, AZ 85012

Maricopa County Environmental Services Division, Air Quality Division, 1001 North Central Avenue #201, Phoenix, AZ 85004

**FOR FURTHER INFORMATION CONTACT:** Patricia A. Bowlin, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901 Telephone: (415) 744-1188.

#### SUPPLEMENTARY INFORMATION:

#### I. Applicability

The rules being proposed for approval into the Arizona SIP are Maricopa County (Maricopa) Rule 318, Approval of Residential Woodburning Devices, and the Maricopa Residential Woodburning Restriction Ordinance. These rules were submitted by the Arizona Department of Environmental Quality (ADEQ) to EPA on August 31, 1995.

#### II. Background

On March 3, 1978, EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the Maricopa Association of Governments (MAG) Urban Planning Area (43 FR 8964; 40 CFR 81.303). On

July 1, 1987 (52 FR 24672) EPA replaced the TSP standards with new PM standards applying only to PM up to 10 microns in diameter (PM-10).<sup>1</sup> On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. On the date of enactment of the 1990 CAA Amendments, PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated non-attainment by operation of law and classified as moderate pursuant to section 188(a). The Phoenix Planning Area was among the areas designated non-attainment.<sup>2</sup> In section 189(a) of the CAA, Congress statutorily adopted the requirement that moderate PM-10 nonattainment areas adopt reasonably available control measures (RACM) rules for PM-10 and established a deadline of November 15, 1991 for states to submit these rules.

In response to section 110(a) and Part D of the Act, the State of Arizona submitted many PM-10 rules to EPA for incorporation into the Arizona SIP on August 31, 1995, including the rules being acted on in this document. This document addresses EPA's proposed action for Maricopa Rule 318, Approval of Residential Woodburning Devices, and the Maricopa Residential Woodburning Restriction Ordinance (Woodburning Ordinance). Maricopa adopted Rule 318 and the Woodburning Ordinance on October 5, 1994. Maricopa Rule 318 and the Woodburning Ordinance were found to be complete on March 12, 1996 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V<sup>3</sup> and are being proposed for limited approval and limited disapproval.

Rule 318 and the Woodburning Ordinance control PM emissions from residential wood combustion. PM emissions can harm human health and the environment. The rules that are the subject of this action were adopted as part of Maricopa's efforts to achieve the National Ambient Air Quality Standard

<sup>1</sup> On July 18, 1997 EPA promulgated revised and new standards for PM-10 and PM-2.5 (62 FR 38651). EPA has not yet established specific plan and control requirements for the revised and new standards. This action is part of Maricopa's efforts to achieve compliance with the 1987 PM-10 standards and the section 189(a) requirement.

<sup>2</sup> On June 10, 1996 EPA reclassified Phoenix Planning Area from moderate to serious nonattainment pursuant to section 188(b)(2). See 61 FR 21372 (May 10, 1996). Section 189(b) requires serious non-attainment areas to adopt Best Available Control Measures (BACM) rules and to submit these rules within 18 months of reclassification.

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

(NAAQS) for PM-10 and in response to the section 189(a) CAA requirement. The following is EPA's evaluation and proposed action for Maricopa Rule 318 and the Woodburning Ordinance.

### III. EPA Evaluation and Proposed Action

In determining the approvability of a PM-10 rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA must also ensure that rules are enforceable and strengthen or maintain the SIP's control strategy.

The statutory provisions relating to RACM are discussed in EPA's "General Preamble", which give the Agency's preliminary views on how EPA intends to act on SIPs submitted under Title I of the CAA. See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). In this proposed rulemaking action, EPA is applying these policies to this submittal, taking into consideration the specific factual issues presented.

For the purpose of assisting state and local agencies in developing RACM rules, EPA prepared a series of technical guidance documents on PM-10 source categories (See CAA section 190). The RACM guidance applicable to this rule is entitled, "Guidance Document for Residential Wood Combustion Emission Control Measures" (EPA-450/2-89-015, September 1989).

Maricopa Rule 318 and the Woodburning Ordinance are new rules for inclusion in the SIP. The submitted rules control PM-10 emissions from residential wood combustion by establishing a mandatory woodburning curtailment program. Rule 318 establishes standards for the approval of woodburning devices, and the Woodburning Ordinance prohibits the use of non-approved devices during high air pollution episodes. EPA has determined that Maricopa Rule 318 and the Woodburning Ordinance meet the criteria for RACM according to the applicable RACM guidance.

Although Maricopa Rule 318 and the Woodburning Ordinance will strengthen the SIP, the rules contain the following deficiencies: Director's discretion and non-EPA-approved testing protocols. A detailed discussion of rule deficiencies can be found in the Technical Support Document for Rule 318 and the Woodburning Ordinance, which is available from the U.S. EPA's Region IX office. These deficiencies may lead to rule enforceability problems and are,

therefore, not consistent with section 172(c)(6) of the 1977 CAA.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts that meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of Maricopa's submitted Rule 318 and the Woodburning Ordinance under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies, and, as such, the rules do not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this action have been adopted by Maricopa and are currently in effect in Maricopa. EPA's final limited disapproval action will not prevent Maricopa or EPA from enforcing these rules.

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

### IV. Administrative Requirements

#### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

#### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its action concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the

private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

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

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

Dated: February 4, 1998.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 98-3325 Filed 2-6-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-5963-4]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent for Partial Deletion of the Celanese Corporation (Hoechst Celanese) Shelby Fiber Operations Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 announces its intent to delete portions of the Celanese Corporation Shelby Fiber Operations Superfund Site located in Shelby (Cleveland County), North Carolina, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B to 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion of the Celanese Corporation Shelby Fiber Operations site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the NPL, published in the **Federal Register** on November 1, 1995 at (60 FR 55466).

This proposal for partial deletion pertains only to portions of Operable Unit (OU) 1—Outer Tier Extraction Well

System, and Operable Unit (OU) 2—Former Source Area and Remediated Creeks. EPA bases its proposal to delete portions of OU-1 and OU-2 on the determination by EPA and the State of North Carolina Department of Environment, Health and Natural Resources (DEHNR) that all appropriate actions under CERCLA have been implemented to protect health, welfare, and the environment.

This partial deletion of OU-1 pertains only to the Outer Tier extraction well system and associated ground-water treatment system. This partial deletion does not include the remaining portions of OU-1 (i.e., the Inner Tier extraction and treatment system). The ground-water unit will remain on the NPL and treatment will continue until a determination by EPA and DEHNR, that all appropriate actions under CERCLA have been completed to protect human health, welfare and the environment relating to residual ground-water contamination at the site.

**DATES:** EPA will accept comments concerning its proposal for partial deletion for thirty days (30) after publication of this document in the **Federal Register** and a newspaper of record.

**ADDRESSES:** Comments may be mailed to: Mr. McKenzie Mallary, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Site Management Branch, 61 Forsyth Street, S.W., Atlanta, Georgia 30303-3014.

Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 docket office.

The address for the regional docket office is Ms. Debbie Jourdan, U. S. Environmental Protection Agency, Federal Atlanta Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303-3014. The telephone number is (404) 562-8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the Cleveland County Library, 104 Howie Drive, Shelby, NC 28151. The telephone number is (704) 487-9069. The library is open Monday through Thursday from 9:00 a.m. to 9:00 p.m., on Friday from 9:00 a.m. until 5:00 p.m., and Saturday from 9:00 a.m. until 1:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. McKenzie Mallary, Remedial Project Manager, U. S. Environmental Protection Agency, Region 4, North Site Management Branch, 61 Forsyth Street, S.W., Atlanta, Georgia 30303-3014 (404) 562-8802; 1-800-435-9233.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedure
- IV. Basis for Intended Partial Site Deletion

### I. Introduction

The United States Environmental Protection Agency (EPA) Region 4 announces its intent to delete a portion of the Celanese Corporation Shelby Fiber Operations site (Site) from the NPL, Appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300. It also serves to request public comments on the deletion proposal. EPA will accept comments on this proposed action for deletion for thirty days after publication of this document in the **Federal Register**.

EPA identifies sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in § 300.425 (e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

This proposal for partial deletion pertains only to OU-1 (Outer Tier), and OU-2 (Former Source Area and Remediated Creeks). Response activities to remediate residual groundwater contamination at the OU-1 (Inner Tier) of this Site are not yet complete and this part of OU-1 will remain on the NPL and is not subject of this partial deletion.

### II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site has met any of the following criteria for site deletion:

(i) Responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate response actions under CERCLA have been implemented