Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0256; FRL-9927-14-Region 9]

Approval and Promulgation of Implementation Plans; Arizona; Phased Discontinuation of Stage II Vapor Recovery Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a state implementation plan (SIP) revision from the Arizona Department of Environmental Quality related to the removal of "Stage II" vapor recovery equipment at gasoline dispensing facilities in the Phoenix-Mesa area. Specifically, the EPA is approving a SIP revision that eliminates the requirement to install and operate such equipment at new gasoline dispensing facilities, and that provides for the phased removal of such equipment at existing gasoline dispensing facilities from October 2016 through September 2018. The EPA has previously determined that onboard refueling vapor recovery is in widespread use nationally and waived the stage II vapor recovery requirement. The EPA is approving this SIP revision

because the resultant short-term incremental increase in emissions would not interfere with attainment or maintenance of the national ambient air quality standards or any other requirement of the Clean Air Act and because it would avoid longer-term increases in emissions from the continued operation of stage II vapor recovery equipment at gasoline dispensing facilities in the Phoenix-Mesa area.

DATES: This direct final rule is effective on [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**] unless the EPA receives adverse comments by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R09-OAR-2014-0256, by one of the following methods:

1. Federal Rulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.
2. E-mail: Jeffrey Buss at buss.jeffrey@epa.gov.
3. Fax: Jeffrey Buss, Air Planning Office (AIR-2), at fax number 415-947-3579.

4. Mail: Jeffrey Buss, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105.
5. Hand or Courier Delivery: Jeffrey Buss, Air Planning Section (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne, San Francisco, California 94105. Such deliveries are only accepted during the Regional Office's normal hours of operation. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R09-OAR-2014-0256. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through www.regulations.gov or e-mail that you consider to be CBI or otherwise protected from disclosure. The www.regulations.gov website is an anonymous access system, which means the 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 the EPA without going through 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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.

Docket: All documents in the docket are listed in the 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 www.regulations.gov or in hard copy at the Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105. The EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (415) 947-4152, e-mail: buss.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we," "us," and "our" refer to the EPA.

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I. Background

Under the Clean Air Act (CAA or "Act"), the EPA has promulgated national ambient air quality standards (NAAQS or "standards") for certain pervasive air pollutants. The NAAQS are concentration levels the attainment and maintenance of which EPA has determined to be requisite to protect public health (i.e., the "primary" NAAQS) and welfare (i.e., the "secondary" NAAQS). Under the CAA, states are required to develop and submit plans, referred to as state implementation plans (SIPs) to implement,

maintain, and enforce the NAAQS.[1] Ozone is one of the air pollutants for which the EPA has established NAAQS.[2] The original NAAQS for ozone, established by the EPA in 1979, was 0.12 parts per million (ppm), 1-hour average ("1-hour ozone standard").[3]

Under the CAA, the EPA is also responsible for designating areas of the country as attainment, nonattainment, or unclassifiable for the various NAAQS. States with "nonattainment" areas are required to submit revisions to their SIPs that include a control strategy necessary to demonstrate how the area will attain the NAAQS.

Under the CAA Amendments of 1990, the "Phoenix metropolitan area," defined by the Maricopa Association of Governments' (MAGs') urban planning area boundary (but later revised to exclude the Gila River Indian Community at 70 FR 68339 (November 10, 2005)), was classified as a "Moderate" nonattainment area, 56 FR 56694 (November 6, 1991), and later reclassified as a

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[1] Under Arizona law, the Arizona Department of Environmental Quality (ADEQ) is responsible for adopting and submitting the Arizona SIP and SIP revisions. Within the Maricopa County portion of the Phoenix-Mesa area, the Maricopa Association of Governments (MAG) is responsible for developing regional ozone air quality plans.

[2] Ground-level ozone is an oxidant that is formed from photochemical reactions in the atmosphere between volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of pollution sources including on-road motor vehicles (cars, trucks, and buses), nonroad vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints.

[3] See 44 FR 8202 (February 8, 1979).

"Serious" nonattainment area, 62 FR 60001 (November 6, 1997), for the 1-hour ozone standard.

States with "Serious," "Severe," or "Extreme" ozone nonattainment areas were required under CAA section 182(b)(3) to submit SIP revisions that require the use of "Stage II" vapor recovery systems at gasoline dispensing facilities (GDFs) located within the nonattainment area. Gasoline dispensing pump vapor control devices, commonly referred to as "Stage II" vapor recovery, are systems that control VOC vapor releases during the refueling of motor vehicles. This process takes the vapors normally emitted directly into the atmosphere when pumping gas and recycles them back into the underground fuel storage tank, preventing them from polluting the air.

In response to this requirement, the State of Arizona promulgated and submitted certain statutes and regulations that require use of Stage II vapor recovery systems in the Phoenix metropolitan area, and later extended the requirements to a larger geographic area referred to as "Area A."[4] The EPA approved the state's Stage-II-related statutes and regulations as a

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[4] "Area A" is defined in Arizona Revised Statutes (ARS) section 49-541, and it includes all of the Phoenix metropolitan 1-hour ozone nonattainment area plus additional areas in Maricopa County to the north, east, and west, as well as small portions of Yavapai County and Pinal County. Area A roughly approximates the boundaries of the Phoenix-Mesa area designated by the EPA for the 1997 8-hour ozone standard.

revision to the Arizona SIP. See 59 FR 54521 (November 1, 1994) and 77 FR 35279 (June 13, 2012).

The 1990 amended CAA anticipates that, over time, Stage II vapor recovery requirements at GDFs would be replaced by "onboard refueling vapor recovery" (ORVR) systems that the EPA was to establish for new motor vehicles under CAA section 202(a)(6). ORVR consists of an activated carbon canister installed in a motor vehicle. The carbon canister captures gasoline vapors during refueling. There the vapors are captured by the activated carbon in the canister. When the engine is started, the vapors are drawn off of the activated carbon and into the engine where they are burned as fuel. In 1994, the EPA promulgated its ORVR standards,[5] with a minimum 95% vapor capture efficiency, which fully applied to all new light duty vehicles by 2000. The ORVR requirements were phased in to apply to heavier classes of vehicles as well – reaching full effect for all new vehicles with a gross vehicle weight rating of up to 10,000 pounds by 2006. Recognizing that, over time, the number of vehicles with ORVR as a percentage of the overall motor vehicle fleet would increase with the turnover of older models not equipped with ORVR with newer models equipped with ORVR, CAA section 202(a)(6) also permits the EPA to promulgate a

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[5] See 59 FR 16262 (April 6, 1994).

determination that ORVR is in "widespread use" throughout the motor vehicle fleet and to revise or waive Stage II vapor recovery requirements for Serious, Severe and Extreme ozone nonattainment areas.

Meanwhile, the EPA has taken certain actions that affect SIP planning in general, and the Phoenix metropolitan area and Stage II vapor recovery SIP requirements in particular, including the following:

- Revision of the NAAQS for ozone, setting it at 0.08 ppm averaged over an 8-hour timeframe (referred to herein as the "1997 8-hour ozone standard")(62 FR 33856, July 18, 1997), and designation of the Phoenix-Mesa area[6] as a "Marginal" nonattainment area (69 FR 23857, April 30, 2004; 77 FR 28424, May 14, 2012);
- Redesignation of the Phoenix metropolitan area from nonattainment to attainment for the 1-hour ozone standard (70 FR 34362; June 14, 2005), and revocation of the 1-hour ozone standard, effective June 15, 2005 (40 CFR 50.9(b));
- Revision of the 8-hour ozone standard down to 0.075 ppm (the 2008 8-hour ozone standard) (73 FR 16436, March 27,

[6] The Phoenix-Mesa 1997 8-hour ozone nonattainment area covers a much larger portion of Maricopa County than the Phoenix metropolitan 1-hour ozone area and also includes the Apache Junction portion of Pinal County. The precise boundaries of the Phoenix-Mesa 1997 8-hour ozone nonattainment area and the Phoenix metropolitan 1-hour ozone nonattainment are found in 40 CFR 81.303.

2008), and designation of the Phoenix-Mesa area as a "Marginal" nonattainment area for the 2008 8-hour ozone standard (77 FR 30088, May 21, 2012);[7]

- Determination that ORVR systems are in "widespread use" in the nation's motor vehicle fleet (77 FR 28772, May 16, 2012; and 40 CFR 51.126); and
- Redesignation of the Phoenix-Mesa ozone area from nonattainment to attainment for the 1997 8-hour ozone standard (79 FR 55645, September 17, 2014).

In the wake of the EPA's "widespread use" determination, states, such as Arizona, that were required to implement Stage II vapor recovery programs under CAA section 182(b)(3) are now permitted to remove the requirement from their SIPs under certain circumstances. On August 7, 2012, the EPA released its "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures"[8] ("Stage II Guidance") to aid in the development of SIP revisions to remove Stage II controls from GDFs. The Stage II

[7] The nonattainment area for the 2008 8-hour ozone standard was expanded slightly to the south and west in Maricopa County as compared to the boundary established for the 1997 8-hour ozone standard. See 40 CFR 81.303 for the exact boundaries of the Phoenix-Mesa 2008 8-hour ozone nonattainment area. For both 8-hour ozone standards, the nonattainment area is referred to as the "Phoenix-Mesa" area. The applicable attainment date for areas initially classified as "Marginal" nonattainment areas for the 2008 8-hour ozone standard is July 20, 2015.

[8] "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures," EPA Office of Air Quality Planning and Standards, August 7, 2012.

Guidance also provides a series of equations to determine the emissions impacts of removing Stage II controls.

In summary, the State of Arizona established Stage II vapor recovery requirements in the Phoenix metropolitan area to address CAA requirements for "Serious" nonattainment areas for the 1-hour ozone standard and later extended the requirements to a larger geographic area known as Area A that roughly approximates the boundaries of the Phoenix-Mesa 1997 8-hour ozone area. The Phoenix metropolitan area has been redesignated to attainment for the 1-hour ozone standard, and the Phoenix-Mesa area has been redesignated to attainment for the 1997 8-hour ozone standard, but the Phoenix-Mesa area remains designated "Marginal" nonattainment for the 2008 8-hour ozone standard. Under 40 CFR 51.126, Stage II vapor recovery is no longer a SIP requirement in ozone nonattainment areas, and existing SIP provisions establishing Stage II vapor recovery requirements may be rescinded under certain circumstances. In this action, and for the reasons set forth in the following section of this document, the EPA is approving the State of Arizona's revisions to its SIP that eliminate Stage II requirements for new GDFs and that provide for the phased removal of Stage II vapor recovery equipment at existing GDFs within the geographic area referred to as "Area A," which

roughly approximates the boundaries of the Phoenix-Mesa area for the 1997 8-hour ozone standard.

II. State Submittal

On September 2, 2014, ADEQ submitted a SIP revision to phase-out Stage II vapor recovery requirements in Area A by eliminating the requirement to install Stage II equipment at new GDFs and by providing for a phased decommissioning process to remove Stage II equipment at existing GDFs beginning in October 2016 and ending in September 2018. The SIP submittal includes the SIP revision itself, "MAG State Implementation Plan Revision for the Removal of Stage II Vapor Recovery Controls in the Maricopa Eight-Hour Ozone Nonattainment Area" ("Stage II Vapor Recovery SIP Revision" or "SIP Revision"), as well as supporting materials related to legal authority and completeness. The Stage II Vapor Recovery SIP Revision includes nonregulatory materials, such as a narrative and supporting technical analysis, and includes a law (House Bill 2128) passed by the Arizona Legislature and signed by the Governor providing for the phase-out of the Stage II vapor recovery requirements.

Effective for State law purposes upon the Governor's signature (i.e., on April 22, 2014), HB 2128 (in relevant part) amends Arizona Revised Statutes (ARS) sections 41-2131 ("Definitions"), 41-2132 ("Stage I vapor recovery systems"), 41-

2133 (“Compliance schedules”), and adds new section 41-2135 (“Stage II vapor recovery systems”). The new section ARS 41-2135 retains the existing Stage II control requirements for existing GDFs and establishes a phased decommissioning process to remove Stage II controls beginning October 1, 2016 and ending September 30, 2018.

The two-year period for decommissioning is based on the expectation of the Arizona Department of Weights and Measures (ADWM) of the time necessary to safely decommission Stage II controls at the over 1,000 existing GDFs in Area A. Decommissioning is expected to be spread evenly over each of the 24 months from October 2016 through September 2018 and to occur for existing GDFs during the month when the annual scheduled Stage II controls test would have occurred. HB 2128 repeals the new section 41-2135 on September 30, 2018 coinciding with the completion of the Stage II decommissioning process. To address the potential for adverse impacts relative to attainment and maintenance of the NAAQS, the SIP submittal includes a year-by-year analysis of the changes in VOC emissions taking into account both the elimination of Stage II controls at new GDFs and the phase-out of Stage II controls at existing GDFs from October 2016 through September 2018.

III. Analysis of the State Submittal

A. SIP Revision Procedural Requirements

CAA sections 110(a)(1), 110(a)(2), and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submittal of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and a public hearing (if requested) was held consistent with EPA's implementing regulations in 40 CFR 51.102.

Appendix B of the Stage II Vapor Recovery SIP Revision documents the public process followed by MAG and ADEQ in developing, adopting, and submitting this SIP revision. Specifically, on May 2 and 3, 2014, ADEQ and MAG published a notice, in a newspaper of general circulation in the Phoenix area, of a joint public hearing to be held on June 3, 2014 and the availability of the draft version of the Stage II vapor recovery SIP revision for public review and comment. ADEQ and MAG conducted the public hearing on June 3, 2014. ADEQ and MAG received no comments on the draft SIP revision. On August 27, 2014, MAG's Regional Council adopted the Stage II Vapor Recovery SIP Revision. ADEQ subsequently adopted and submitted the SIP revision to EPA by letter dated September 2, 2104. As such, ADEQ and MAG have satisfied applicable statutory and regulatory

procedural requirements for adoption and submittal of this SIP revision.

B. SIP Revision Substantive Requirements

As discussed above, pursuant to the EPA's determination of "widespread use" (of ORVR systems in the motor vehicle fleet), Stage II vapor recovery controls are no longer a SIP requirement, and thus, states are allowed to rescind such control requirements in their SIPs if doing so is consistent with the general SIP revision requirements of CAA section 110(l) and section 193. In relevant part, CAA section 110(l) prohibits the EPA from approving a SIP revision if that revision would interfere with any applicable requirement concerning reasonable further progress towards, or attainment of, any of the NAAQS, or any other applicable requirement of the CAA.

Section 193 provides, in relevant part, that no control requirement in effect, or required to be adopted, before November 15, 1990 (i.e., the effective date of the CAA Amendments of 1990) in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990 in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant. Arizona's Stage II vapor recovery controls were developed in response to the CAA Amendments of 1990 and thus were adopted and approved in the

years following the 1990 CAA Amendments. Thus, the requirements of section 193 do not apply to this particular SIP revision.

As described in the **Background** section of this document, Stage II and ORVR are two types of emission control systems that capture fuel vapors from vehicle gas tanks during refueling. Stage II controls are installed in the dispensing pumps while ORVR is installed as part of the motor vehicle. Stage II and ORVR were initially both required by the 1990 CAA Amendments, but Congress recognized that Stage II and ORVR would eventually become largely redundant technologies as the percentage of the nation's motor vehicle fleet equipped with ORVR increases, and provided authority to the EPA to allow states to remove Stage II from their SIPs after the EPA finds that ORVR is in widespread use. The EPA's Stage II Guidance projects that, by 2015, over 84% of all the gasoline dispensed in the nation will be dispensed to ORVR-equipped motor vehicles.[9] As such, Stage II and ORVR have become largely redundant technologies, and Stage II control systems are achieving an ever-declining emissions benefit as more ORVR-equipped vehicle continue to enter the on-road motor vehicle fleet. In addition, the EPA's Stage II Guidance recognizes that, in areas where certain types of vacuum-assist Stage II control systems are used, the limited

[9] See Table A-1 of the Stage II Guidance.

compatibility between ORVR and some configurations of this Stage II hardware may ultimately result in an area-wide emissions disbenefit. The disbenefit can result when the Stage II controls pull air into the underground tank instead of gasoline vapors when both vacuum-assist Stage II controls and ORVR are active during refueling. This increases the pressure in the underground tank and can cause venting of excess emissions into the air.

The Phoenix-Mesa ozone nonattainment area is an area where the vast majority of Stage II systems that have been installed use vacuum assist technologies.[10] As documented in chapter 2 of the Stage II Vapor Recovery SIP Revision and in MAG's technical support document (appendix A, exhibit 1 of the SIP Revision), MAG used the equations recommended by the EPA in its Stage II Guidance to calculate the areawide emission reduction benefits/disbenefits associated with Stage II controls on vehicle refueling emissions in the Phoenix-Mesa ozone nonattainment area. More specifically, MAG developed year-by-year estimates of areawide VOC emissions from motor vehicle refueling with use of Stage II controls in the Phoenix-Mesa area taking into account the fraction of gasoline throughput covered by Stage II controls, the fraction of gasoline dispensed to

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[10] Table A-6 of the EPA's Stage II Guidance cites the percentages of State/Area GDF using vacuum assist Stage II technology. The listed percentage for the Phoenix-Mesa area is 85%.

ORVR-equipped vehicles, the Stage II control in-use control efficiency, the fraction of gasoline dispensed through vacuum-assisted Stage II control, and the compatibility factor for the increase in underground storage tank vent emissions relative to normal conditions.

Based on MAG's estimates, assuming Stage II requirements remain in place, the VOC emissions reductions benefits from Stage II controls would continue a steady decline until 2018 when the implementation of Stage II controls will first result in an emissions disbenefit. Without rescission of Stage II control requirements, the disbenefit would then increase over time in concert with the increase in the frequency of refueling by ORVR-equipped vehicles at vacuum-assist Stage II GDFs.

The Stage II Vapor Recovery SIP Revision is intended to minimize the temporary increases in VOC emissions during the decommissioning process and to avoid the long-term disbenefit by eliminating the requirement for installing Stage II equipment at new GDFs and phasing-out the Stage II requirement for (and providing for the removal of Stage II equipment at) existing GDFs from October 2016 through September 2018. To estimate the emissions impacts due to the SIP Revision, MAG developed year-by-year VOC estimates for the foregone emissions reductions due to construction of new GDFs from 2014 through 2017 without Stage

II controls and due to the decommissioning of Stage II controls at existing GDFs during the 2017 ozone season. Table 1 below compares the VOC emissions impacts with and without the Stage II Vapor Recovery SIP Revision in the Phoenix-Mesa area based on MAG's estimates.

Table 1 – Comparison of VOC Emissions Impacts in the Phoenix-Mesa Area With and Without the Stage II Vapor Recovery SIP Revision

Year	Column 1: Emission Reduction Benefits from Stage II Controls (Summer, mtpd)[a]	Column 2: Emission Reduction Benefits from Stage II Controls With SIP Revision (Summer, mtpd)[b]	Column 3: Emission Impact of SIP Revision (Summer, mtpd)[c]
2014	0.725	0.710	0.015
2015	0.462	0.443	0.019
2016	0.238	0.223	0.015
2017	0.060	0.029	0.031
2018	-0.108	-0.023	-0.085
2019	-0.244	0	-0.244
2020	-0.359	0	-0.359

[a] Column 1 is from table 2-3 of the Stage II Vapor Recovery SIP Revision.
[b] Column 2 is derived by combining column 1 with the estimates of total temporary increases in VOC emissions from the SIP Revision shown in table 2-7 of the Stage II Vapor Recovery SIP Revision, except for year 2018 during which a disbenefit of 0.023 mtpd is expected due to existing facilities that have not removed Stage II controls by the beginning of the 2018 ozone season.
[c] Column 3 is derived by subtracting column 2 from column 1.
NOTE: Negative values in the columns listing emission reduction benefits indicate increases in emissions.

As shown in table 1, without the Stage II Vapor Recovery SIP Revision, the emissions benefits from implementation of Stage II controls in the Phoenix-Mesa area would decline until

2018 when implementation of Stage II would result in an emissions increase due to the incompatibility between ORVR-equipped vehicles and vacuum-assist Stage II technology. With the SIP Revision, table 1 shows that the emissions reduction benefits from implementation of Stage II in the Phoenix-Mesa area would be reduced slightly due to the construction and operation of new GDFs without Stage II controls and due to the phase-out of Stage II vapor controls at existing GDFs during the 2017 ozone season.[11] The temporary emissions increases due to the SIP Revision (relative to the scenario in which Stage II requirements remain fully implemented) will occur during years 2014 through 2017 and range from 0.015 mtpd to 0.031 mtpd. Beginning in 2018 and increasing in magnitude thereafter, the SIP Revision will result in fewer VOC emissions than would otherwise have occurred if Stage II requirements were to remain fully implemented in the Phoenix-Mesa area (once again, due to the incompatibility of ORVR-equipped vehicles and vacuum-assist Stage II technologies).

For perspective, we note that the temporary increases in VOC emissions during years 2014 through 2017 due to the SIP Revision would represent an approximate 0.002 percent to 0.005

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[11] Under the SIP Revision, the phase-out for existing GDFS begins in October 2016, and thus does not affect the 2016 ozone season.

percent increase in the overall VOC emissions inventory in the Phoenix-Mesa area.[12] Such increases would have negligible impacts on ozone concentrations in the area. More importantly, the schedule for the phase-out of Stage II controls under the SIP Revision will maintain most of the emissions reductions benefits associated with Stage II control through 2017 while avoiding the more significant increases in VOC emissions that would otherwise occur beginning in 2019 and beyond due to the incompatibility effects described above between ORVR-equipped vehicles and vacuum-assist Stage II technologies. In 2018, the scheduled phase-out will reduce the emissions increase (due to ORVR and Stage II incompatibilities) that would otherwise be expected but would not entirely avoid an emissions increase because some existing GDFs will not yet have removed Stage II controls by the beginning of the 2018 ozone season. All Stage II controls will be decommissioned by September 30, 2018 under the Stage II Vapor Recovery SIP Revision. Lastly, the phase-out of Stage II controls by the end of the 2018 ozone season will support longer-term regional efforts to attain or maintain the 1997 and 2008 8-hour ozone standards in the Phoenix-Mesa area.

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[12] The EPA-approved MAG Eight-Hour Ozone Maintenance Plan anticipates VOC emissions between 653.9 mtpd (June ozone episode, 2005) and 659.0 mtpd (June ozone episode, 2015) during the relevant period. See our proposed approval of the maintenance plan and redesignation request at 79 FR 16734, at 16744 (March 26, 2014).

We find MAG's methods and assumptions, as documented in chapter 2 of the Stage II Vapor Recovery SIP Revision and in MAG's technical support document, to be reasonable, and we find that MAG's emissions estimates provide a reasonable basis upon which to evaluate the ozone impacts of the SIP Revision. Moreover, based on MAG's emissions estimates and for the reasons provided above, we conclude that the SIP Revision would not interfere with reasonable further progress toward, or attainment of, any of the NAAQS and would not interfere with any other applicable requirement of the CAA. Thus, we conclude that the SIP Revision is approvable under CAA section 110(l).

IV. The EPA's Action and Request for Public Comment

The EPA is taking direct final action to approve the Stage II Vapor Recovery SIP Revision submitted by ADEQ on September 2, 2014 to provide for the phased removal of "Stage II" vapor recovery equipment at gasoline dispensing facilities in the Phoenix-Mesa area. Specifically, the EPA is approving a SIP revision that eliminates the requirement to install and operate such equipment at new gasoline dispensing facilities, and that provides for the phased removal of such equipment at existing gasoline dispensing facilities from October 2016 through September 2018.

The EPA is approving this SIP revision because Stage II vapor recovery controls are no longer a SIP requirement under CAA section 182(b)(3) due to EPA's "widespread use determination" for ORVR. Additionally, we are approving this SIP revision because the temporary incremental increase in VOC emissions from 2014 through 2018 would not interfere with reasonable further progress toward, or attainment of, any of the NAAQS, and because this SIP revision avoids the longer-term VOC emissions increases associated with continued implementation of Stage II controls in the Phoenix-Mesa area. As part of this final action, the EPA is approving the specific statutory provisions that provide for the phase-out of Stage II controls in Area A, i.e., sections 5 through 8, and 10 through 12 of House Bill 2128, amending ARS sections 41-2131, 41-2132, 41-2133 and adding section 41-2135.[13]

We are publishing this action without prior proposal because we view this as a noncontroversial SIP revision and anticipate no adverse comments. In the Proposed Rules section of this **Federal Register** publication, however, we are publishing a separate document that will serve as the proposal to approve the

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[13] Approval of these statutory provisions as revisions to the Arizona SIP supersedes the following existing SIP provisions in the Arizona SIP: ARS section 41-2131, as approved at 77 FR 35279 (June 13, 2012); ARS section 41-2132, as approved at 77 FR 35279 (June 13, 2012); and ARS section 41-2133, as approved at 77 FR 35279 (June 13, 2012).

state SIP revision if relevant adverse comments are filed. This rule will be effective [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**] without further notice unless we receive relevant adverse comments by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

If we receive such comments, we will withdraw this action before the effective date by publishing a separate document withdrawing the direct final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of this rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective on [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

V. Incorporation by reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the

incorporation by reference of certain sections of House Bill 2128 amending various sections of the Arizona Revised Statutes related to stage II vapor recovery systems in Area A, effective April 22, 2014, as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VI. 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 (Public Law 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 the 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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. The 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 [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 2015.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Editorial note: This document was received for publication by the Office of the Federal Register on August 27, 2015.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 — APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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)(171) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(171) The following plan was submitted on September 2, 2014 by the Governor's designee.

(i) *Incorporation by reference*.

(A) Arizona Department of Environmental Quality.

(*1*) House Bill 2128, effective April 22, 2014, excluding sections 1 through 4, and 9 (including the text that appears in all capital letters and excluding the text that appears in strikethrough).

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(*1*) *MAG 2014 State Implementation Plan Revision for the Removal of Stage II Vapor Recovery Controls in the Maricopa Eight-Hour Ozone Nonattainment Area* (August 2014), adopted by the Regional Council of the Maricopa Association of Governments on August 27, 2014, excluding appendix A, exhibit 2 ("Arizona Revised Statutes Listed in Table 1-1").

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