

May 14, 2015

TO: Members of the MAG Air Quality Technical Advisory Committee

FROM: William Mattingly, Peoria, Chair

SUBJECT: MEETING NOTIFICATION AND TRANSMITTAL OF TENTATIVE AGENDA

Thursday, May 21, 2015 - 1:30 p.m.
MAG Office, Suite 200 - Saguaro Room
302 North 1st Avenue, Phoenix

A meeting of the MAG Air Quality Technical Advisory Committee has been scheduled for the time and place noted above. Members of the Air Quality Technical Advisory Committee may attend the meeting either in person, by videoconference or by telephone conference call. Those attending by videoconference must notify the MAG site three business days prior to the meeting. If you have any questions regarding the meeting, please contact Chair Mattingly or Lindy Bauer at 602-254-6300.

Please park in the garage underneath the building, bring your ticket, and parking will be validated. For those using transit, Valley Metro/Regional Public Transportation Authority will provide transit tickets for your trip. For those using bicycles, please lock your bicycle in the bike rack in the garage.

In 1996, the Regional Council approved a simple majority quorum for all MAG advisory committees. If the MAG Air Quality Technical Advisory Committee does not meet the quorum requirement, members who arrived at the meeting will be instructed a legal meeting cannot occur and subsequently be dismissed. Your attendance at the meeting is strongly encouraged. If you are unable to attend the meeting, please make arrangements for a proxy from your entity to represent you.

Pursuant to Title II of the Americans with Disabilities Act (ADA), MAG does not discriminate on the basis of disability in admissions to or participation in its public meetings. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Jason Stephens at the MAG office. Requests should be made as early as possible to allow time to arrange the accommodation.

TENTATIVE AGENDA

COMMITTEE ACTION REQUESTED

1. Call to Order

2. Call to the Audience

An opportunity will be provided to members of the public to address the Air Quality Technical Advisory Committee on items not scheduled on the agenda that fall under the jurisdiction of MAG, or on items on the agenda for discussion but not for action. Members of the public will be requested not to exceed a three minute time period for their comments. A total of 15 minutes will be provided for the Call to the Audience agenda item, unless the Air Quality Technical Advisory Committee requests an exception to this limit. Please note that those wishing to comment on action agenda items will be given an opportunity at the time the item is heard.

3. Approval of the March 26, 2015 Meeting Minutes

4. EPA Approval of the MAG 2014 State Implementation Plan Revision for the Removal of Stage II Vapor Recovery

On March 30, 2015, the Environmental Protection Agency (EPA) issued a notice to approve the MAG 2014 State Implementation Plan Revision for the Removal of Stage II Vapor Recovery Controls in the Maricopa Eight-Hour Ozone Nonattainment Area. In accordance with the Clean Air Act, EPA had made a determination that onboard refueling vapor recovery systems are in widespread use throughout the motor vehicle fleet, effective May 16, 2012. Since Stage II is a duplicative system, the plan revision requested that EPA remove the requirement for Stage II vapor recovery in this area for new gasoline dispensing facilities beginning in 2014 and for existing facilities beginning in October 2016,

2. For information.

3. Review and approve the March 26, 2015 meeting minutes.

4. For information and discussion.

before a regional disbenefit begins to occur in 2018. Please refer to the enclosed material.

5. Maricopa County Ozone Campaign

The Maricopa County Air Quality Department will be conducting an Ozone Campaign this summer to encourage daily actions to reduce ozone pollution. A presentation will be provided.

6. Development of the 2014 Periodic Emissions Inventory

The development of the 2014 Periodic Emissions Inventory is underway by the Maricopa County Air Quality Department and Maricopa Association of Governments. Required by the Clean Air Act, the emissions inventories describe the sources of emissions in Maricopa County and the Maricopa nonattainment areas. At the last meeting, the Committee requested a presentation on the development of the emissions inventory. An update will be provided.

7. Call for Future Agenda Items

The next meeting of the Committee has been tentatively scheduled for **Thursday, June 25, 2015 at 1:30 p.m.** The Chair will invite the Committee members to suggest future agenda items.

5. For information and discussion.

6. For information and discussion.

7. For information and discussion.

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
AIR QUALITY TECHNICAL ADVISORY COMMITTEE MEETING

Thursday, March 26, 2015
MAG Office
Phoenix, Arizona

MEMBERS ATTENDING

William Mattingly, Peoria, Chairman	Jeanette Fish, Maricopa County Farm Bureau
Tim Conner, Scottsdale, Vice Chair	Steve Trussell, Arizona Rock Products Association
Drew Bryck, Avondale	Claudia Whitehead, Greater Phoenix Chamber of Commerce
* John Minear, Buckeye	* Amanda McGennis, Associated General Contractors
# Jim Weiss, Chandler	* Spencer Kamps, Homebuilders Association of Central Arizona
# Jamie McCullough, El Mirage	# Mannie Carpenter, Valley Forward
Jessica Koberna, Gilbert	* Kai Umeda, University of Arizona Cooperative Extension
# Megan Sheldon, Glendale	# Beverly Chenausky, Arizona Department of Transportation
* Cato Esquivel, Goodyear	* Arizona Department of Environmental Quality
# Ryan Wozniak for Kazi Haque, Maricopa	* Environmental Protection Agency
# Greg Edwards for Scott Bouchie, Mesa	Corky Martinkovic, Maricopa County Air Quality Department
Joe Giudice, Phoenix	Scott DiBiase, Pinal County
# Antonio DeLaCruz, Surprise	* Michelle Wilson, Arizona Department of Weights and Measures
Oddvar Tveit, Tempe	Ed Stillings, Federal Highway Administration
* Youngtown	* Judi Nelson, Arizona State University
Ramona Simpson, Queen Creek	Stan Belone, Salt River Pima-Maricopa Indian Community
# Walter Bouchard, American Lung Association of Arizona	
Kristin Watt, Salt River Project	
* Rebecca Hudson, Southwest Gas Corporation	
Nancy Nesky, Arizona Public Service Company	
# Gina Grey, Western States Petroleum Association	
* Robert Forrest, Valley Metro/RPTA	
* Dave Berry, Arizona Motor Transport Association	

*Members neither present nor represented by proxy.

#Participated via telephone conference call.

+Participated via video conference call.

OTHERS PRESENT

Lindy Bauer, Maricopa Association of Governments	Randy Sedlacek, Maricopa Association of Governments
Julie Hoffman, Maricopa Association of Governments	Cathy Arthur, Maricopa Association of Governments
Matt Poppen, Maricopa Association of Governments	Adam Xia, Maricopa Association of Governments
Kara Johnson, Maricopa Association of Governments	Douglas Brodman, Express Parcel Service
Dean Giles, Maricopa Association of Governments	Philip Loftis, Maricopa County Department of Transportation
Taejoo Shin, Maricopa Association of Governments	
Patrick Shaw, Maricopa Association of Governments	

1. Call to Order

A meeting of the Maricopa Association of Governments (MAG) Air Quality Technical Advisory Committee (AQTAC) was conducted on March 26, 2015. William Mattingly, City of Peoria, Chair, called the meeting to order at approximately 1:40 p.m. Greg Edwards, City of Mesa; Antonio DeLaCruz, City of Surprise; Jamie McCullough, City of El Mirage; Jim Weiss, City of Chandler; Gina Grey, Western States Petroleum Association; Ryan Wozniak, City of Maricopa; Walter Bouchard, American Lung Association of Arizona; Megan Sheldon, City of Glendale; Beverly Chenausky, Arizona Department of Transportation; and Mannie Carpenter, Valley Forward attended the meeting via telephone conference call.

Chair Mattingly indicated that copies of the handouts for the meeting are available. He noted for members attending through audio conference, the presentations for the meeting will be posted on the MAG website under Resources for the Committee agenda, whenever possible. If it is not possible to post them before the meeting, they will be posted after the meeting.

2. Call to the Audience

Chair Mattingly stated that the Call to the Audience provides an opportunity for members of the public to address the Committee on items not scheduled on the agenda that fall under the jurisdiction of MAG, or on items on the agenda for discussion but not for action. Comment cards for those wishing to speak are available on the tables adjacent to the doorways inside the meeting room. Members of the public will be requested not to exceed a three minute time period for their comments. A total of 15 minutes will be provided for the Call to the Audience agenda item, unless the Committee requests an exception to this limit. Please note that those wishing to comment on action agenda items will be given an opportunity at the time the item is heard. Chair Mattingly noted that no public comment cards had been received.

3. Approval of the January 22, 2015 Meeting Minutes

The Committee reviewed the minutes from the January 22, 2015 meeting. Tim Connor, City of Scottsdale, moved and Nancy Nesky, Arizona Public Service, seconded and the motion to approve the January 22, 2015 meeting minutes carried unanimously.

4. Update on the Arizona Center for Law in the Public Interest Lawsuit on the MAG 2012 Five Percent Plan for PM-10

Ms. Bauer indicated that on February 13, 2015, the Arizona Center for Law in the Public Interest (ACLPI) submitted a reply brief in the lawsuit filed by the Center to challenge the Environmental Protection Agency (EPA) approval of the MAG 2012 Five Percent Plan for PM-10. She stated that the reply brief is in response to the EPA brief submitted on December 17, 2014 and the Arizona Department of Environmental Quality (ADEQ) and MAG briefs submitted on December 31, 2014. EPA has indicated that according to the Department of Justice, they expect this case to be heard in early 2016. Ms. Bauer noted that early 2016 is a best guess at this point in time. She mentioned that the ACLPI issues have remained the same; this brief was in response to the comments in the other briefs submitted. Ms. Bauer stated that MAG has not heard from the U.S. Ninth Circuit Court of Appeals on the MAG intervenor brief. She indicated that MAG submitted an intervenor brief; however, the Court will be determining whether to let

it stand as an intervenor brief or become an amicus brief. The MAG Washington, D. C. legal counsel has not yet heard back from the Court.

5. CMAQ Annual Report

Dean Giles, Maricopa Association of Governments, provided the Congestion Mitigation and Air Quality Improvement (CMAQ) Program Annual Report for fiscal year 2014 ending September 30, 2014. The Federal Highway Administration guidance requires an annual report be prepared that specifies how CMAQ funds have been spent with the expected air quality benefits. The annual report was submitted to the Federal Highway Administration Arizona Division in February 2015.

Mr. Giles reviewed the CMAQ projects included in the report. He indicated that the 2014 annual report contains 26 projects that include information on the CMAQ cost and estimated air quality benefits for carbon monoxide, nitrogen oxides (NO_x), volatile organic compounds (VOC), PM-10, and PM-2.5 as appropriate, in kilograms per day. The projects have previously been reviewed by the Committee for their estimated emission reduction benefits prior to the project being selected for funding in the Transportation Improvement Program. The data for calculating the estimated emission reduction benefit was provided by the MAG member agencies in the project applications. Arizona Department of Transportation and MAG staff prepared the report in the electronic format produced by the Federal Highway Administration's CMAQ tracking system. Mr. Giles highlighted the first page of the report that addresses several projects that reduce PM-10 including paving unpaved road projects and certified street sweeper projects. Also, there are two projects, one in Pinal County and the other in Santa Cruz County, that address PM-2.5 in PM-2.5 nonattainment areas.

6. EPA Final State Implementation Plan Requirements Rule for the 2008 Ozone Standard (0.075 parts per million)

Matt Poppen, Maricopa Association of Governments, presented the EPA final state implementation plan (SIP) requirements rule for the 2008 ozone standard. On March 6, 2015, EPA published a notice of final rulemaking, Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements, which addresses a range of nonattainment area SIP requirements for the 2008 ozone standard of 0.075 parts per million. The final rule is effective April 6, 2015. Mr. Poppen noted that the final rule, an EPA webinar, and fact sheet are included in the agenda materials.

Mr. Poppen provided an overview. The final rule establishes due dates and provides guidance for nonattainment area planning requirements including: attainment demonstrations; reasonable further progress demonstrations; reasonable available control technology; reasonable available control measures; new source review; emissions inventories; contingency measures; motor vehicle emissions budgets; and conformity requirements. The final rule revokes the 1997 eight-hour ozone standard of 0.08 parts per million for all purposes, including transportation conformity, effective April 6, 2015. In addition, the final rule establishes anti-backsliding measures for areas that remain in nonattainment for the 1997 eight-hour ozone standard after the 1997 standard is revoked, ensuring that emission controls remain in place and air quality in the nonattainment areas does not get worse after the standard is revoked.

Mr. Poppen discussed revised attainment dates. He stated that in response to the December 23, 2014 U.S. Court of Appeals for the D.C. Circuit decision to vacate the attainment dates previously established in the EPA 2012 Classifications Rule, the final rule revised the attainment dates for nonattainment areas based upon the effective date of their classification, as opposed to the end of the year. The maximum attainment date for Marginal Areas is revised to July 20, 2015 from December 31, 2015. Similarly, the maximum attainment date for Moderate Areas is revised to July 20, 2018 from December 31, 2018.

Mr. Poppen indicated that the revised attainment dates impact the Maricopa County nonattainment area. The Maricopa nonattainment area is classified as a Marginal Area for the 2008 ozone standard. Attainment of the ozone standard for Marginal Areas is now based on 2012-2014 air quality data, rather than 2013-2015 data. Based upon 2012-2014 data, the Maricopa area does not attain the 2008 ozone standard of 0.075 ppm and does not qualify for an extension of the attainment date based upon 2014 data. Per the Clean Air Act, within six months following July 20, 2015, EPA will reclassify the Maricopa nonattainment area to a Moderate Area with a new attainment date of July 20, 2018 in which attainment will be based on 2015-2017 data.

Ms. Bauer added that when the attainment date is the middle of the ozone season, the area needs to be in attainment in the ozone season prior to that year.

Mr. Poppen discussed that when EPA publishes the reclassification of the Maricopa nonattainment area to a Moderate Area, EPA will include a due date for a Moderate Area plan. Moderate Areas must meet specific nonattainment area planning requirements in addition to meeting the requirements of Marginal Areas. The MAG 2014 Eight-Hour Ozone Plan - Submittal of Marginal Area Requirements for the Maricopa Nonattainment Area addressed the Clean Air Act Marginal Area requirements and was submitted to EPA for approval by ADEQ on July 2, 2014. The MAG 2014 Eight-Hour Ozone Plan addressed the following Marginal Area requirements: baseline emissions inventory for year 2011 and a commitment for periodic inventory updates; corrections to pre-1990 reasonably available control technologies and pre-1990 vehicle inspection and maintenance programs; nonattainment area preconstruction permit programs and new source review; emissions statement; VOC offset requirement; and conformity requirements. With regard to new source review, both Maricopa and Pinal County are in the process of updating their new source review rules. In addition, ADEQ is responding to a proposed limited approval/disapproval of the new source review rules recently issued by EPA.

Mr. Poppen provided the specific nonattainment area planning requirements for Moderate Areas. The first requirement is a plan provision for reasonable further progress, including a rate of progress plan to provide for a 15 percent reduction in VOC emissions over a six year period from baseline anthropogenic emissions. Mr. Poppen noted that the baseline year would likely be 2011 in which a 15 percent reduction over the 2012-2017 six year period is required. An additional requirement is for a photochemical modeling attainment demonstration. Mr. Poppen added that the next requirement is reasonably available control technology (RACT) for VOC and NOx sources in the nonattainment area. Maricopa County, Pinal County, and ADEQ are in the process of evaluating if RACT needs to be updated for these sources. The prior NOx waiver granted under the one-hour ozone standard to exempt NOx sources from RACT does not apply to the 2008 eight-hour ozone standard.

Mr. Poppen continued with the specific nonattainment area planning requirements for Moderate Areas. In regards to the requirement for a vehicle inspection and maintenance program, ADEQ currently operates a program that meets Moderate Area requirements. For VOC offsets from permitted major sources, a higher VOC offset ratio than the Marginal Area is required. Mr. Poppen stated that a reasonably available control measures (RACM) analysis is required to determine if the attainment date can be advanced by at least one year. He noted that EPA provides guidelines on a RACM analysis, which requires the analysis of wider net of controls than RACT, and must demonstrate that the available RACM measures are technologically and economically feasible and will advance the attainment date by at least one year. Contingency measures are required to demonstrate one year's rate of progress - a three percent emission reductions of VOC or NO_x, if the area fails to attain by the attainment deadline. Lastly, Motor Vehicle Emissions Budgets are required for transportation conformity purposes which are developed from the attainment demonstration.

Jeanette Fish, Maricopa County Farm Bureau, asked about the background contributors to the baseline emissions. Mr. Poppen replied that biogenic emissions would not be included in the reasonable further progress demonstration and that only reductions of anthropogenic emissions are required. He indicated that the 15 percent reduction in VOC emissions is totaled from mobile, point, and area sources. Mr. Poppen reported that once a rate of progress plan has been completed, even for a prior standard, an area is not required to complete it again. He indicated that a rate of progress plan was completed for the one-hour ozone standard, however this was for an area smaller than the eight-hour area. Mr. Poppen explained that there are two choices on the 15 percent reduction: reduce 15 percent across the whole nonattainment area or reduce 15 percent of emissions from within the isolated areas not included in the one-hour ozone boundary. He added that the isolated areas not included in the one-hour ozone boundaries are largely rural areas while the area within the one-hour ozone boundary is the urban core.

Kristin Watt, inquired about the Moderate Area plan submittal date. Mr. Poppen responded that the EPA Administrator will establish the date when the reclassification is published which may be in early 2016. He mentioned that the thinking is that areas will be given one year to submit plans. Ms. Bauer added that MAG has started with preparations early.

Ms. Bauer stated that MAG has started work on updating the ozone models. Ms. Bauer noted that MAG models the United States in order to establish transport and background conditions. Additionally, emissions inventory information from Mexico and Canada have been gathered. Ms. Bauer discussed that transport plays a large role. She indicated that EPA has also made changes to the ozone modeling approach. After a brief look at the new EPA approach, the region may be able to model attainment in 2017 with the federal control measures and the current state and local control measures. No additional state and local measures would be needed. Ms. Bauer commented that this is preliminary, however it is important to look ahead in order to not impose new requirements within the region if these controls are sufficient. She commented that the region needs to stay clean as measured by the monitors. Ms. Bauer indicated that MAG will give a presentation on the ozone modeling to the Committee in the future. Mr. Poppen added that if the ozone standard is attained in 2015 or 2016 a clean data finding can be issued from EPA which would alleviate the need to address the Moderate Area planning requirements. Ms. Bauer added that a clean data finding would be the best case scenario because it relieves the area of the requirements if the area can be in attainment.

Chair Mattingly asked about the ozone area classifications. Mr. Poppen indicated that ozone concentrations as high as 0.086 ppm were initially classified as Marginal Areas. However, the Maricopa region will be reclassified to a Moderate Area for failing to attain by the Marginal area deadline. Chair Mattingly inquired about the names for the other classifications. Mr. Poppen replied there are Marginal, Moderate, Serious, Severe, and Extreme Areas.

Steve Trussell, Arizona Rock Products Association, inquired about the Marginal Area deadline. Mr. Poppen responded that the region will not be able to attain the standard by July 20, 2015 due to the attainment date being mid-ozone season; no values from the 2015 ozone season can be used toward meeting the July 20, 2015 attainment date. He indicated 2012-2014 data would be used to evaluate attainment and the standard was not attained based on those years.

Joe Giudice, City of Phoenix, asked how the new EPA proposed standard would affect this plan. Mr. Poppen responded that MAG will have to wait and see if EPA sets a new standard. He added that EPA indicated that implementation requirements for the new standard should be available within a year after the standard is finalized. Ms. Bauer commented on the anti-backsliding provisions in the Clean Air Act in which areas must meet each standard.

7. Comments on the EPA Proposed Ozone Standards

Ms. Bauer discussed comments provided on the EPA proposed ozone standards. On December 17, 2014, EPA published a proposed rule to strengthen the National Ambient Air Quality Standards for ozone. For the primary standard, EPA proposed a range of 0.065 to 0.070 parts per million (65-70 parts per billion). The current ozone standard established by EPA is 0.075 parts per million. The region does not currently meet the 0.075 parts per million ozone standard.

Ms. Bauer stated that MAG has been tracking in the Arizona Legislature the Senate Concurrent Memorial (SCM) 1014 that urges EPA to refrain from reducing the ozone standard. She noted that SCM 1014 has made progress in that it is out of the Senate and House of Representatives and back to the Senate for concurrence. The SCM 1014 expresses concern that nine counties in Arizona would be out of compliance if EPA reduced the ozone standard to 70 parts per billion. At the national level, legislation has been introduced, House of Representatives (H.R.) 1388, that would prohibit EPA from setting a more stringent ozone standard until approximately 85 percent of counties are in attainment of the 2008 standard. Ms. Bauer mentioned that H.R. 1388 is known as the Clean Air Strong Economies Act. She discussed that this legislation addresses EPA proposing new standards when areas have not met the current standard, which creates considerable economic concerns throughout the country.

Ms. Bauer discussed Senate Bill (S.) 640 at the national level. She indicated that S. 640 is an updated version from Senator Jeff Flake of the Ozone Regulatory Delay and Extension of Assessment Length (ORDEAL) Act. In S. 640, EPA would not be allowed to review the standards before the period of February 1, 2018 through December 31, 2018 and instead of reviewing standards every five years, EPA could only review and change standards every 10 years. Ms. Bauer indicated that SCM 1014, H.R. 1388, and S. 640 are included in the agenda materials.

Ms. Bauer thanked everyone who shared with MAG the comments they provided to EPA regarding the proposed ozone standards. The comments are included in the agenda materials.

She noted that the comments provided by the Arizona Chapter Associated General Contractors, the Associated General Contractors of America, and Arizona Rock Products Association were consistent with the SCM 1014 going through the State Legislature. Ms. Bauer mentioned that Maricopa County provided more technical comments. She noted that the comments provided by ADEQ stated that EPA should chose a defensible level at or near 72 parts per billion that encompasses no more than an adequate margin of safety. Ms. Bauer commented that this comment concerned MAG since 72 parts per billion is more stringent than the 75 parts per billion standard, which the region does not currently meet. In addition, it is not in line with SCM 1014. She stated that MAG staff spoke with the ADEQ Air Quality Director who indicated that ADEQ wanted to subtly suggest a 72 parts per billion ozone standard if the standard must be lowered. Ms. Bauer indicated that this concerned MAG and noted that the region is the only ozone nonattainment area in Arizona and tightening the standard could impact the region. She thanked those who provided their comments to MAG so that they may be shared with the Committee.

Ms. Fish commented that there is frustration with the air quality standards being a constantly moving target. She stated that it seems that EPA is setting standards to make sure attainment is never reached permanently. Ms. Fish mentioned that the efforts of the region never seem good enough and that the goal is always changing.

8. Proposed New Air Quality Project for the MAG FY 2016 Work Program

Ms. Bauer stated that a new project for Air Quality Technical Assistance On-Call for \$100,000 has been proposed in the Draft MAG Fiscal Year 2016 Unified Planning Work Program. She indicated that this type of project is important to MAG so that MAG may utilize consultant expertise. Ms. Bauer noted that the Draft MAG Fiscal Year 2016 Unified Planning Work Program is currently going through the MAG process for review.

Chair Mattingly inquired if MAG has a consultant or if the process would include a Request for Proposals. Ms. Bauer replied that MAG will go through a Request for Qualifications process for the On-Call Assistance. She indicated that if the project is approved as part of the FY 2016 Work Program, MAG will be going through a fair, open, and competitive Request for Qualifications process. Generally, the proposals are reviewed and recommendations on the proposals are taken through to MAG Regional Council for approval. Once the on-call consultants are approved, they would be available for use if necessary.

9. Call for Future Agenda Items

Chair Mattingly requested suggestions for future agenda items. Ms. Sheldon inquired if MAG could provide a presentation on the Air Quality Airport Survey data that was recently requested from the MAG member agencies and what the results are used for. Ms. Bauer replied that MAG can provide a presentation on this at a future meeting. She stated that the data was requested since MAG prepares part of the Maricopa County Emissions Inventory.

Mr. Trussell added that he would like to hear from ADEQ on their comments to EPA regarding the proposed ozone standards. He expressed concern with the comments.

Chair Mattingly indicated that the next meeting of the Committee has been scheduled for Thursday, April 23, 2015 at 1:30 p.m. With no further comments, the meeting was adjourned at approximately 2:20 p.m.

The EPA Regional Administrator, Jared Blumenfeld signed the following rule on March 30, 2015 and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this version of this rule, it is not the official version. Please refer to the official version in a forthcoming FR publication appearing on the Government Printing Office website, <http://fdsys.gpo.gov/fdsys/search/home.action>, and on www.regulations.gov in Docket Number EPA-R09-OAR-2014-0256.

Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0256; FRL-____-__

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

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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

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

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

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).

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

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.

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 determination that ORVR is in “widespread use” throughout the

⁵ See 59 FR 16262 (April 6, 1994).

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 area⁶ 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

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.

revisions to remove Stage II controls from GDFs. The Stage II 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 today's 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

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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(1) and section 193. In relevant part, CAA section 110(1) 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

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

vacuum-assist Stage II control systems are used, the limited 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

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%.

by Stage II controls, the fraction of gasoline dispensed to 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

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

Revision would represent an approximate 0.002 percent to 0.005 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

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).

longer-term regional efforts to attain or maintain the 1997 and 2008 8-hour ozone standards in the Phoenix-Mesa area.

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(1).

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

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).

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this **Federal Register** publication, however, we are publishing a separate document that will serve as the proposal to approve the 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

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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

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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 today's **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

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.

(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*

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Council of the Maricopa Association of Governments on August 27, 2014, excluding appendix A, exhibit 2 ("Arizona Revised Statutes Listed in Table 1-1").

* * * * *