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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2010-0717; FRL-9473-7]

Approval and Promulgation of Implementation Plans; Arizona; Update to Stage II Gasoline Vapor Recovery Program; Change in the Definition of "Gasoline" To Exclude "E85"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Clean Air Act, EPA is proposing to approve certain revisions to the Arizona State Implementation Plan submitted by the Arizona Department of Environmental Quality. These revisions concern amendments to the statutory and regulatory provisions adopted by the State of Arizona to regulate volatile organic compound emissions from the transfer of gasoline from storage tanks to motor vehicle fuel tanks at gasoline dispensing sites, i.e., stage II vapor recovery. The revisions would also amend the definition of "gasoline" to explicitly exclude E85 and thereby amend the requirements for fuels available for use in the Phoenix metropolitan area as well as the requirements for vapor recovery. In proposing approval of the revisions, EPA is proposing to waive the statutory stage II vapor recovery requirements at E85 dispensing pumps within the Phoenix area. Lastly, EPA is proposing to correct an EPA rulemaking that approved a previous version of the Arizona rules regulating these sources.

DATES: Comments must be received on or before December 2, 2011. Anyone wishing the opportunity for the oral presentation of data, views, or arguments, must submit a request on or before October 18, 2011.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2010-0717, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (AIR-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: For further information on the revisions to the Arizona State Implementation Plan submitted by the Arizona Department of Environmental Quality, contact Mr. Andrew Steckel, EPA Region IX, 75 Hawthorne Street (AIR-4), San Francisco, CA 94105, phone number (415) 947-4115, fax number (415) 947-

3579, or by e-mail at steckel.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us," and "our" refer to EPA.

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I. The State's Submittal

A. What did the state submit for EPA action?

On September 21, 2009, the Arizona Department of Environmental Quality (ADEQ) submitted a revision to the Arizona state implementation plan (SIP) updating the gasoline vapor recovery program that was originally submitted and approved by EPA in 1994 to meet certain applicable requirements of the Clean Air Act, as amended in 1990 (CAA or "Act").¹ The specific revisions include statutory provisions and administrative rules regulating the emissions of volatile organic compounds (VOC) due to the transfer of gasoline from storage tanks (typically underground) to motor vehicle fuel tanks at gasoline stations in the Phoenix metropolitan area. The statutory

¹ 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 fuel storage tank, preventing them from polluting the air. For more information on Stage II vapor recovery systems, please see EPA's proposed rule, "Air Quality: Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver," 76 FR 41731, at 41734 (July 15, 2011).

provisions and administrative rules are contained in enclosures 3 and 4 of ADEQ's September 21, 2009 SIP revision submittal package.²

ADEQ's submittal represents an update to the stage II requirements but is comprehensive in that the submitted statutory and regulatory provisions also address general requirements related to stage I vapor recovery.³ While ADEQ's submittal relates almost entirely to the state's vapor recovery program, it also amends the State's fuels program by amending the definition of the term

"gasoline" to exclude "E85," a change that affects both the gasoline fuels program established for the Phoenix metropolitan area and the stage II vapor recovery program because both programs now rely on that particular definition. ADEQ's September 21, 2009 SIP revision submittal also contains adequate documentation of public notice, opportunity for comment, and a public hearing on the proposed SIP revision (see enclosure 5 of the submittal). The public participation

materials submitted by ADEQ demonstrate compliance with the procedural requirements set forth in section 110(l) of the Clean Air Act (CAA or "Act"). (The substantive requirements of section 110(l) are discussed in section II.B.4 of this document.)

Table 1 lists the statutory provisions, and table 2 lists the administrative rules, that were submitted by ADEQ on September 21, 2009 and that we are proposing to approve in today's action.

TABLE 1—SUBMITTED STATUTORY PROVISIONS

Arizona revised statutes	Title	Submitted
Title 41, chapter 15, article 1, section 41–2051.	Definitions: subsection 6 ("Certification"), subsection 10 ("Department"), subsection 11 ("Diesel fuel"), subsection 12 ("Director"), and subsection 13 ("E85").	09/21/09
Title 41, chapter 15, article 6, section 41–2121.	Definitions: subsection 5 ("Gasoline")	09/21/09
Title 41, chapter 15, article 7, section 41–2131.	Definitions: subsection 1 ("Annual throughput"), subsection 2 ("Clean air act"), subsection 3 ("Gasoline dispensing site"), subsection 4 ("Stage I vapor collection system"), subsection 5 ("Stage II vapor collection system"), and subsection 6 ("Vapor control system").	09/21/09
Title 41, chapter 15, article 7, section 41–2132.	Stage I and stage II vapor recovery systems	09/21/09
Title 41, chapter 15, article 7, section 41–2133.	Compliance schedules	09/21/09

TABLE 2—SUBMITTED RULES

Arizona administrative code	Rule title	Effective date (for state purposes)	Submitted
Title 20, chapter 2, article 1, section R20–2–101	Definitions	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–901	Material Incorporated by Reference	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–902	Exemptions	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–903	Equipment and Installation	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–904	Application Requirements and Process for Authority to Construct Plan Approval.	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–905	Initial Inspection and Testing	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–907	Operation	10/08/98	09/21/09
Title 20, chapter 2, article 9, section R20–2–908	Training and Public Education	10/08/98	09/21/09
Title 20, chapter 2, article 9, section R20–2–909	Recordkeeping and Reporting	10/08/98	09/21/09
Title 20, chapter 2, article 9, section R20–2–910	Annual Inspection and Testing	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–911	Compliance Inspections	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–912	Enforcement	06/05/04	09/21/09

On March 21, 2010, the submittal of these rules for ADEQ was deemed by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are there other versions of these provisions in the Arizona SIP?

On November 1, 1994 (59 FR 54521), we approved Arizona's stage II vapor recovery rules that had been adopted by the Arizona Department of Weights and Measures (ADWM) on August 27, 1993 and submitted to us by ADEQ on May 27, 1994. Specifically, we approved the

following sections of title 4, chapter 31, article 9 ("Gasoline Vapor Control") of the Arizona Administrative Code (AAC):

- R4–31–901—Definitions;
- R4–31–902—Material incorporated by reference;
- R4–31–903—Exemptions;
- R4–31–904—Equipment and installation;

² By letter dated April 12, 2011, ADEQ substituted the statutes and rules in enclosures 3 and 4 as submitted on September 21, 2009 with official, published versions of the same statutes and rules in keeping with the requirements. ADEQ did so in response to an EPA request for the official, published versions of the statutes and rules to comply with the requirements established by the

Office of the Federal Register for incorporating such materials by reference into the Code of Federal Regulations.

³ "Stage I" vapor recovery refers to the collection of VOC emissions expelled from underground storage tanks at gasoline stations when being refilled by tank trucks. The Maricopa County Air Quality Department (MCAQD) implements its own

stage I vapor recovery regulation within the Phoenix metropolitan area, Regulation III, Rule 353 ("Transfer of Gasoline into Stationary Storage Dispensing Tanks"). EPA approved MCAQD rule 353 and incorporated it into the Arizona SIP. See 61 FR 3578 (February 1, 1996). MCAQD's stage I vapor recovery program and related rule are not affected by today's proposed action.

- R4-31-905—Plan review and approval;
- R4-31-906—Operation;
- R4-31-907—Training and public education;
- R4-31-908—Recordkeeping and reporting;
- R4-31-909—Annual tests; and
- R4-31-910—Enforcement.

In our 1994 final rule, we made an error in how we codified the stage II vapor recovery rules into the Arizona SIP, and are proposing to correct that error in today's proposed action (see section II.C of this document).

The Arizona statutory provisions that establish stage II vapor recovery requirements were originally submitted to EPA on November 13, 1992, and later re-submitted on February 16, 1993, but, in approving the amended Stage II vapor recovery rules submitted in 1994, EPA inadvertently neglected to approve the statutory provisions that had been submitted the previous year. Thus, there are no previous versions of the ARS provisions listed in table 1 with the exception of ARS 41-2121, paragraph (5), which defines the term "gasoline." We approved an earlier version of the definition for "gasoline" (then codified in paragraph (4) of ARS section 41-2121) in connection with our approval of the carbon monoxide redesignation request and maintenance plan for Tucson area. See 65 FR 36353 (June 8, 2000), as corrected at 65 FR 50651 (August 21, 2000) and 69 FR 12802 (March 18, 2004).

C. What are the relevant statutory provisions?

Under CAA section 182(b)(3), Stage II vapor recovery systems are required to be used at larger gasoline dispensing facilities located in Serious, Severe, and Extreme nonattainment areas for ozone.⁴ Based on deadlines established in the Act, within 24 months from the effective date of the initial area designation and classification, states must adopt a Stage II program into their SIPs, and the controls must be installed according to specified deadlines following state rule adoption. For existing facilities the installation deadlines depend on the

⁴ See CAA section 182(b)(3), 42 U.S.C. 7511a(b)(3). Originally, the section 182(b)(3) Stage II requirement also applied in all Moderate ozone nonattainment areas. However, under section 202(a)(6) of the CAA, 42 U.S.C. 7521(a)(6), the requirements of section 182(b)(3) no longer apply in Moderate ozone nonattainment areas after EPA promulgated ORVR standards on April 6, 1994, 59 FR 16262, codified at 40 CFR parts 86 (including 86.098-8), 88 and 600. Under implementation rules issued in 2004 for the 1997 8-hour ozone standard, EPA retained the Stage II-related requirements under section 182(b)(3) as they applied for the 1-hour ozone standard. 40 CFR 51.900(f)(5).

date the facilities were built and the monthly volume of gasoline dispensed. See CAA sections 182(b)(3)(A)-(B), and 324(a)-(c).⁵

However, the CAA provides discretionary authority to the EPA Administrator to, by rule, revise or waive the section 182(b)(3) Stage II requirement after the Administrator determines that On-Board Refueling Vapor Recovery (ORVR) is in widespread use throughout the motor vehicle fleet. See CAA section 202(a)(6). ORVR consists of an activated carbon canister installed in the vehicle into which vapors being expelled from the vehicle fuel tanks are forced to flow. 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. EPA promulgated ORVR standards on April 6, 1994, 59 FR 16262.

EPA first began the phase-in of ORVR by requiring that 40 percent of passenger cars manufactured in model year 1998 be equipped with ORVR. The ORVR requirement for passenger cars was increased to 100 percent by model year 2000. Phase-in continued for other vehicle types and ORVR has been a requirement on virtually all new gasoline-powered motor vehicles (passenger cars, light trucks, and complete⁶ heavy-duty gasoline powered vehicles under 10,000 lbs gross vehicle weight rating (GVWR)) sold since model year 2006. See 40 CFR part 86. Currently, ORVR-equipped vehicles comprise approximately 64 percent of the in-service vehicle fleet nationwide, and account for around 74 percent of the vehicle miles traveled (VMT) in the nationwide fleet. The percentage of non-ORVR vehicles and the percentage of VMT driven by those vehicles declines each year as these older vehicles wear out and are removed from service. Since certain vehicles are not required to have ORVR, including motorcycles and incomplete heavy-duty gasoline powered trucks chassis, under current requirements the nationwide motor

⁵ Section 182(b)(3)(B) has the following effective date requirements for implementation of Stage II after the adoption date by a state of a Stage II rule: 6 months after adoption of the state rule, for gas stations built after the enactment date (which for newly designated areas would be the designation date); 1 year after adoption date, for gas stations pumping at least 100,000 gal/month based on average monthly sales over 2-year period before adoption date; 2 years after adoption, for all others.

⁶ For purposes of ORVR applicability, a "complete" vehicle means a vehicle that leaves the primary manufacturer's control with its primary load carrying device or container attached.

vehicle fleet would never be entirely equipped with ORVR.

Recently, EPA proposed criteria for determining whether ORVR is in "widespread use" for purposes of controlling motor vehicle refueling emissions throughout the motor vehicle fleet. See 76 FR 41731 (July 15, 2011). In EPA's July 15, 2011 action, EPA also proposed, based on the proposed criteria, to establish June 30, 2013 as the date on which "widespread use" will occur nationally, and to establish June 30, 2013 as the date on which a nationwide waiver of Stage II gasoline vapor recovery systems will be effective. While, if finalized as proposed, our July 15, 2011 proposal would establish a nationwide date for determining when ORVR is in "widespread use" and for waiving the Stage II requirement, it also proposes to allow individual states to submit SIP revisions that demonstrate that ORVR widespread use has occurred (or will occur) on a date earlier than June 30, 2013 for areas in their states, and to request that the EPA revise or waive the section 182(b)(3) requirement as it applies to only those areas. See 76 FR at 41733. Consistent with EPA's July 15, 2011 proposal to allow States to submit such SIP revisions, EPA is today proposing to approve an area-specific revision to the Arizona SIP and to approve a waiver for a specific portion of the motor vehicle fleet in the Phoenix metropolitan area.

D. What is the purpose of the submitted SIP revision?

Under the Clean Air Act, as amended in 1990, the "Phoenix 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 for the 1-hour ozone national ambient air quality standard (NAAQS). See 56 FR 56694, at 56717 (November 6, 1991). Later, the Phoenix area was reclassified as "serious" for the 1-hour ozone standard (62 FR 60001, November 6, 1997).

As noted above, section 182(b)(3) of the Act required States with ozone nonattainment areas such as the Phoenix area to adopt and submit a SIP revision requiring gasoline dispensing facilities to install and operate stage II vapor recovery equipment. In response, in 1993, ADEQ submitted the statutory provisions and rules establishing stage II vapor recovery requirements in the Phoenix area, the only area in Arizona subject to section 182(b)(3) of the Act. In May 1994, ADEQ submitted amended

stage II vapor recovery rules, which EPA then approved later that year. See 59 FR 54521 (November 1, 1994).

More recently, the Arizona Legislature has amended the relevant statutes (1) to require ADWM to adopt rules to enhance compliance with the stage II vapor recovery requirements, (2) to explicitly exclude "E85" from the definition of "gasoline," and (3) to extend the geographic area to which stage II vapor recovery requirements apply to "area A."⁷ Since our approval of the stage II vapor recovery rules in 1994, ADWM has renumbered and recodified its gasoline vapor recovery rules and amended them to enhance compliance with the requirements. The purpose of ADEQ's September 21, 2009 SIP revision is to incorporate the statutory and regulatory changes described above into the Arizona SIP.

EPA's "Technical Support Document for EPA's Notice of Proposed Rulemaking on Revisions to the Arizona State Implementation Plan" (August 2011) (TSD) has more information about the statutory provisions and rules and our evaluation, and can be found in the docket for this action.

II. EPA's Evaluation and Action

A. How is EPA evaluating the statutes and rules?

Since 1994, when EPA last approved Arizona's stage II vapor recovery rules, EPA has designated a larger area referred to the "Phoenix-Mesa" area as nonattainment for the 1997 8-hour ozone standard (69 FR 23858, April 30, 2004),⁸ approved the State's 1-hour ozone redesignation request and maintenance plan for the Phoenix area (70 FR 34362, June 14, 2005), and revoked the 1-hour ozone standard (replaced by the 1997 8-hour ozone standard) effective June 15, 2005 (69 FR 23951, April 30, 2004). Notwithstanding the redesignation of the Phoenix area and the revocation of the 1-hour ozone standard, the Phoenix area remains subject to the CAA section 182(b)(3) stage II requirement by virtue of its classification as "serious" for the 1-hour ozone standard on the effective date of the area's designation as "nonattainment" for the 8-hour ozone standard (i.e., on June 15, 2004) under the anti-backsliding provisions of EPA's rules governing the transition from the 1-hour to the 8-hour ozone standard.

⁷ EPA most recently approved the definition of "area A" as part of the Arizona SIP in 2004. See 69 FR 10161 (March 4, 2004).

⁸ In 2009, EPA proposed to classify the Phoenix-Mesa nonattainment area as "marginal" for the 1997 8-hour ozone standard. See 74 FR 2936 (January 16, 2009). EPA has not taken final action on the January 2009 proposed rule.

See 40 CFR 51.905(a). Thus, we have evaluated the submitted statutory provisions and rules to ensure Arizona's stage II program complies with section 182(b)(3) of the Act. In addition, we have evaluated the submitted statutory provisions and rules for enforceability (see CAA section 110(a)(2)), and for non-interference with reasonable further progress or attainment of the NAAQS (see CAA section 110(l)).

Guidance and policy documents that we used to evaluate the submitted statutory provisions and rules for enforceability and compliance with CAA section 182(b)(3) stage II vapor requirements include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "Draft Model Rule, Gasoline Dispensing Facility—Stage II Vapor Recovery," EPA (August 17, 1992).
4. "Gasoline Vapor Recovery Guidelines," EPA Region IX (April 24, 2000).
5. "Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Vapor Recovery is Demonstrated," memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, and Margo Tsigotis Oge, Director, EPA Office of Transportation and Air Quality, to Regional Air Division Directors, dated December 12, 2006 ("2006 Page/Oge Memorandum").⁹
6. "Removal of Stage II Vapor Recovery from Refueling of Corporate Fleets," memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, and Margo Tsigotis Oge, Director, EPA Office of Transportation and Air Quality, to Regional Air Division Directors, dated November 28, 2007 ("2007 Page/Oge Memorandum").

All of the above documents can be found in the docket for this rulemaking.

⁹ In EPA's recent national rulemaking regarding waiver of Stage II requirements, we indicate that the Agency continues to believe the 2006 Page/Oge Memorandum is sound guidance in areas where Stage II is currently being implemented, and is unaffected by the proposed national widespread use determination. See 76 FR 41731, at 41737 (July 15, 2011). In today's action, we rely primarily on the principles and rationale set forth in the 2006 Page/Oge Memorandum rather than those set forth in EPA's July 15, 2011 proposed rule.

B. Do the statutes and rules meet the evaluation criteria?

1. Clean Air Act Requirements

As discussed in section I.C. of this document, CAA section 182(b)(3) requires States with ozone nonattainment areas classified as "moderate" or worse to adopt regulations requiring owners or operators of gasoline dispensing systems to install and operate stage II vapor recovery equipment at their facilities. The Act specifies that these State rules must apply to any facility that dispenses more than 10,000 gallons of gasoline per month, or, in the case of an independent small business marketer (as defined in CAA section 324), any facility that dispenses more than 50,000 gallons of gasoline per month.

Section 202(a)(6) of the Act required EPA to promulgate standards requiring that new light-duty vehicles be equipped with onboard refueling vapor recovery (ORVR) systems. ORVR regulations were promulgated by EPA on April 6, 1994 (see 59 FR 16262, 40 CFR 86.001 and 40 CFR 86.098). Upon promulgation of the ORVR rules, under CAA section 202(a)(6) the stage II requirement of section 182(b)(3) no longer applied to moderate areas, but only to serious and worse areas. Since model year 2000, all passenger cars have been required to have ORVR, and since 2006, virtually all new gasoline powered motor vehicles (passenger cars, light trucks, and complete heavy-duty gasoline powered vehicles) have been required to be equipped with ORVR.

The CAA anticipates that, over the long-term, ORVR will reduce the benefit from, and the need for, stage II vapor recovery systems at gasoline dispensing sites in ozone nonattainment areas. Section 202(a)(6) of the CAA allows EPA to revise or waive the application of stage II vapor recovery requirements for areas classified as serious, severe, or extreme for ozone, as appropriate, after such time as EPA determines that ORVR systems are in widespread use throughout the motor vehicle fleet. CAA section 202(a)(6) does not specify which motor vehicle fleet must be the subject of a widespread use determination before EPA may revise or waive the section 182(b)(3) stage II requirement. Nor does the CAA identify what level of ORVR use in the motor vehicle fleet must be reached before it is "widespread." To date, EPA has issued two memoranda addressing when ORVR

widespread use might be found for particular fleets.¹⁰

EPA expects the possibility of different rates of implementation of ORVR across different geographic regions and among different types of motor vehicle fleets within any region. Given this, EPA does not believe the CAA section 202(a)(6) must be read narrowly to allow a widespread use determination and waiver of the stage II requirement for a given area or area's fleet only if ORVR use has become widespread through the entire United States, or only if ORVR use has reached a definite level in each area. Rather, EPA believes that section 202(a)(6) allows the Agency to apply the widespread use criterion to either the entire motor vehicle fleet in a State or nonattainment area, or to special segments of the overall fleet for which ORVR use is shown to be sufficiently high, and to base widespread use determinations on differing levels of ORVR use, as appropriate. EPA also believes that the Act allows the Agency to use an area-specific rulemaking approving a SIP revision to issue the section 202(a)(6) waiver for a relevant fleet in a nonattainment area.

One metric that EPA has recommended in determining whether ORVR use is widespread within a given motor vehicle fleet considers when VOC emissions resulting from the application of ORVR controls alone equal the VOC emissions when both stage II vapor recovery systems and ORVR controls are used, after accounting for incompatibility excess emissions. The incompatibility excess emissions factor relates to losses in control efficiency when certain types of stage II and ORVR are used together. EPA believes that one reasonable widespread use metric based on comparable VOC emissions will likely have been reached when the percentage of motor vehicles in service with ORVR, the vehicle miles traveled (VMT) by ORVR-equipped vehicles, or the gasoline dispensed to ORVR-equipped vehicles reaches 95 percent. See the 2006 Page/Oge Memorandum, page 2. Application of the 95 percent criterion could lead, for example, to

waiver of stage II vapor recovery requirements at gasoline dispensing sites that exclusively fuel new automobiles at assembly plants and rental cars at rental car facilities given the high percentage (essentially 100%) of ORVR-equipped vehicles associated with such facilities.

2. Arizona's Stage II Vapor Recovery Requirements

Arizona's stage II vapor recovery requirements are set forth in state law (codified in the Arizona Revised Statutes) and administrative rules adopted by ADWM (codified in the Arizona Administrative Code). Arizona Revised Statutes (ARS) section 41-2132 ("Stage I and stage II vapor recovery systems") requires gasoline dispensing sites to be equipped with a stage II vapor collection system. The requirement applies within "an ozone nonattainment area designated as moderate, serious, severe or extreme by the United States environmental protection agency under § 107(d) of the clean air act, area A or other geographical area * * *." ARS section 41-2132(C). "Area A" is defined in ARS section 49-541 and it includes all of the metropolitan Phoenix former 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. ADEQ did not submit ARS section 49-541 to EPA as part of the stage II vapor recovery SIP update revision on September 21, 2009, but EPA has previously approved the current definition of "area A" from ARS section 49-541 into the SIP. See 69 FR 10161 (March 4, 2004).

ARS 41-2132 also provides an exemption for gasoline dispensing sites with a throughput of less than 10,000 gallons per month or less than 50,000 gallons per month in the case of an independent small business marketer as defined in section 324 of the Clean Air Act, and for gasoline dispensing sites that are located on a manufacturer's proving ground. ARS 41-2133 sets forth certain compliance schedules related to the stage II vapor recovery requirements in ARS 41-2132.

The stage II vapor recovery requirements in ARS 41-2132 rely upon the definitions of certain terms, such as "gasoline," "stage II vapor collection system," and "E85," among others, which are codified in ARS sections 41-2015, 41-2121, and 41-2131, and ADEQ included the relevant definitions, along with ARS sections 41-2132 and 41-2133, in the SIP revision submittal dated September 21, 2009. See table 1 of this document. The definition of

"gasoline," which is codified in paragraph (5) of ARS 41-2121, specifically excludes "diesel fuel" and "E85."

ARS section 41-2132(G) directs ADWM to adopt by rule standards for the installation and operation of stage I and stage II vapor recovery systems. ADWM's rules for such systems are codified at title 20, chapter 2, article 9 ("Gasoline Vapor Recovery"), of the Arizona Administrative Code (AAC). These rules rely upon certain definitions in AAC, title 20, chapter 2, article 1 ("Administration and Procedures"), section R20-2-101 ("Definitions"). ADEQ submitted these rules and definition to EPA as part of the stage II SIP revision dated September 21, 2009—see table 2 of this document.

We previously approved ADWM's stage II vapor recovery rules (59 FR 54521, November 1, 1994), and in so doing, found them to comply with CAA section 182(b)(3), to be consistent with EPA guidance on stage II vapor recovery regulations, and to be enforceable. Thus, our action today is based on an evaluation of the changes in ADWM's rules as submitted on September 21, 2009 relative to those that were approved in 1994 and that are incorporated into the existing Arizona SIP.

In addition to renumbering and recodification, ADWM's vapor recovery rules have been amended to delete, modify, and add certain definitions; to approve use of certain CARB test procedures not previously approved; to include general requirements for stage I vapor recovery systems; to add exemptions for motor raceways, motor vehicle proving grounds, and marine and aircraft refueling facilities; to clarify and expand application requirements; and to enhance compliance-related provisions.

3. Compliance With CAA Section 182(b)(3) Stage II Requirements

As explained in this subsection, based on our review of Arizona's stage II requirements set forth in certain statutes and administrative rules, we conclude that the state meets the CAA section 182(b)(3) stage II requirements. First, the state is requiring stage II vapor recovery controls in an area that encompasses all of the 1-hour ozone "serious" nonattainment area consistent with compliance schedules set forth in the Act. The state also provides low-volume throughput exemptions that are consistent with those allowed for in CAA section 182(b)(3). State law, however, also provides an exemption for a "gasoline dispensing site that is

¹⁰ "Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Vapor Recovery is Demonstrated," memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, and Margo Tsigiotis Oge, Director, EPA Office of Transportation and Air Quality, to Regional Air Division Directors, dated December 12, 2006; and "Removal of Stage II Vapor Recovery from Refueling of Corporate Fleets," memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, and Margo Tsigiotis Oge, Director, EPA Office of Transportation and Air Quality, to Regional Air Division Directors, dated November 28, 2007.

located on a manufacturer's proving ground." See ARS 41-2132(C). This exemption is not specifically allowed under CAA section 182(b)(3); however, ADWM indicates that the one facility to which the exemption had applied has closed at its location within the nonattainment area, and the equipment has been removed to a new location outside of the nonattainment area.¹¹ Furthermore, ADWM reports that, at the facility's new location, the fuel throughput is less than the low-throughput (i.e., 10,000-gallon per month) threshold exemption authorized in section 182(b)(3). Assuming that the fuel usage rate at the relocated facility is representative of the throughput at gasoline dispensing sites that would be covered by the State's exemption for manufacturer's proving ground in the event that such an exempt facility would locate once again within the nonattainment area, the exemption is acceptable under section 182(b)(3).

Because the state submitted the definition of "gasoline" in ARS 41-2121 for our approval as part of the September 21, 2009 SIP revision, we must consider whether the exclusion in ARS 41-2121 of "E85" from the definition of gasoline comports with section 182(b)(3) vapor recovery requirements. By excluding "E85" from the definition of gasoline, Arizona's stage II vapor recovery law (ARS 41-2132) would not apply to E85 dispensing pumps within the ozone nonattainment area.

E85 is a motor vehicle fuel that is a blend of as little as 15 percent gasoline and up to 85 percent ethanol. (In wintertime applications, the ratio may be 30 percent gasoline and 70 percent ethanol.) E85 can only be used in specially designed flexible fuel vehicles (FFVs), which have mostly been manufactured since 1998. Since these are newer vehicles, most of them are equipped with ORVR, and every FFV built today has ORVR. Thus, most vehicles refueling at E85 dispensing pumps are already having their evaporative emissions captured, as in the cases of late model rental cars refueling at rental car facilities and newly manufactured cars being fueled for the first time at automobile assembly plants. At the time EPA released the 2006 Page/Oge Memorandum, EPA estimated that 59 percent of FFVs in use

nationwide were equipped with ORVR, and we noted that the percentage of FFVs with ORVR will continue to climb as older vehicles are taken out of service and new models join the fleet. We also noted that the percentage of FFVs equipped with ORVR varies across different ozone nonattainment areas. In the Phoenix metropolitan area, ADWM estimates, based on a vehicle database for 2008 provided by the Arizona Department of Transportation's Motor Vehicle Division, that approximately 87 percent of FFVs in the Phoenix metropolitan area are equipped with ORVR.¹² Given how close the ORVR-equipped percentage for FFVs in the Phoenix metropolitan area (87 percent in 2008 and climbing) is to the ORVR widespread use threshold based on comparable VOC emissions (95 percent), discussed above, we conclude that ORVR is in widespread use in the FFV vehicle fleet in the Phoenix metropolitan area for the purposes of CAA section 202(a)(6) so long as the change in emissions due to use of E85 does not interfere with attainment and RFP of any of the NAAQS. As discussed in section II.B.4 of this document, we conclude that allowing for greater use of ethanol (by amending the definition of "gasoline" to exclude E85) in the Phoenix metropolitan area would not interfere with attainment and RFP of any of the NAAQS, and thus, under CAA section 202(a)(6), we propose to waive the stage II vapor recovery requirements for E85 dispensing pumps in the Phoenix metropolitan area.

As noted above, in general, ADWM's revisions clarify and improve the existing stage II vapor recovery rules that we previously approved. The only significant changes potentially affecting approvability with respect to CAA section 182(b)(3) are the new exemptions for motor raceways, and for marine and aircraft refueling facilities.

ADWM has provided us information concerning the dispensing of gasoline at the one motor raceway, the Phoenix International Raceway, to which the exemption applies.¹³ At the Phoenix International Raceway, two types of fuel

activities occur: the first is the fueling for service vehicles, and the second is the fueling for race cars during the racing event. According to the information provided ADWM by the facility, approximately 8,000 gallons of gasoline per year are dispensed at this facility for service vehicles, which is far below the 10,000-gallon per month low-throughput threshold exemption in CAA section 182(b)(3). Thus, as applied to service vehicles, the exemption for gasoline dispensing sites at motor raceways is acceptable.

The facility's fixed gasoline dispensers, which are used to fuel service vehicles, are not used for race car fueling. Instead, for race events, the fuels are special blends that are trucked into the facility by the supplier and dispensed from a mobile truck into gas cans to be used during the racing event. We believe it is reasonable to interpret CAA section 182(b)(3) as applying to "motor vehicles" as defined in CAA section 216(2) ("As used in this part, * * * (2) The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway"), and as such, the motor raceway exemption as it applies to refueling of race cars, which are not designed for street or highway use, is acceptable under section 182(b)(3). The same is also true for the exemption for marine and aircraft refueling facilities, which refuel mobile sources that clearly are not motor vehicles as defined in CAA section 216(2). In sum, for the reasons stated above, the new exemptions in ADWM's Stage II vapor recovery rules for motor raceways, and for marine and aircraft refueling facilities are acceptable.

4. Compliance With CAA Section 110(l)

Under CAA section 110(l), EPA must not approve a SIP revision if the revision would interfere with any applicable requirement concerning reasonable further progress (RFP) and attainment of any of the NAAQS or any other applicable requirement under the Act. With respect to this SIP revision, we find that the only potentially significant adverse effect on emissions and, thus, potential for interference stems from the exclusion of E85 from the definition of "gasoline" in ARS 41-2121, which would allow for increased use of E85 (by FFVs) as a motor fuel in the Phoenix metropolitan area, and the relative difference in emissions from FFVs using E85 relative to the same vehicles using the specially formulated gasoline (referred to as "Arizona Cleaner Burning Gasoline," or "Arizona CBG")

¹¹ The information concerning the application of the exemption for gasoline dispensing sites located on a manufacturer's proving ground is contained in a letter from Duane M. Yantorno, Director, Transportation Fuels and Air Quality Program, Arizona Department of Weights and Measures, to Andrew Steckel, Chief, Rules Office, Air Division, EPA Region IX, dated August 1, 2011.

¹² The information on the percentage of FFVs in the Phoenix metropolitan area that are ORVR-equipped is from a report titled "Widespread Use Analysis for E85 Stage II Waiver Request," sent to EPA by Duane M. Yantorno, Director, Transportation Fuels and Air Quality Programs, ADWM, via email on October 25, 2010.

¹³ The information concerning the application of the exemption for motor raceways in the Phoenix metropolitan area is contained in a letter from Duane M. Yantorno, Director, Transportation Fuels and Air Quality Program, Arizona Department of Weights and Measures, to Andrew Steckel, Chief, Rules Office, Air Division, EPA Region IX, dated August 1, 2011.

otherwise required.¹⁴ (Arizona CBG is a boutique fuel established to reduce vehicle emissions in the Phoenix metropolitan area and to help meet CAA air quality planning requirements.) The gasoline portion of E85 must continue to meet the specifications for Arizona CBG pursuant to AAC R20–2–718(B).

We would normally look to EPA's motor vehicle emissions model (the most recent of which is "MOVES2010") to estimate changes in vehicle emissions resulting from combustion of different fuel types, but MOVES2010 is only designed to estimate the effects of ethanol in gasoline up to 10% by volume, and thus is not capable of estimating vehicle emissions using E85. (EPA is planning on evaluating recently completed and ongoing studies using E85 this year in order to add an E85 option to the next version of MOVES.) However, we did review a recently published study in the *Journal of the Air & Waste Management Association* titled "Effect of E85 on Tailpipe Emissions from Light-Duty Vehicles"¹⁵ (herein, the "E85 Vehicle Emissions Study"),

¹⁴ EPA's guidance for States in developing their Stage II SIPs in the early 1990s suggested that States use the same definition of "gasoline" as the one found in EPA's Standard of Performance for Bulk Gasoline Terminals at 40 CFR 60.501, which includes "any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater which is used as a fuel for internal combustion engines." EPA recommended using this definition to most broadly reach situations in which refueling of motor vehicles results in evaporative VOC emissions that contribute to ozone nonattainment concentrations, and to avoid a narrow interpretation of what is "gasoline" that would allow significant VOC emissions from motor vehicle refueling activities in nonattainment areas to go uncontrolled.

In the existing SIP, Arizona includes a definition of "gasoline." AAC R4–31–901(5), that is consistent with the NSPS definition. The SIP revision for which we are proposing approval in today's action would replace the existing SIP definition of "gasoline" from Arizona's rules for gasoline vapor recovery (AAC title 20, chapter 2, article 9) with the definition of "gasoline" from Arizona's statutes governing motor fuel (ARS section 41–2121(5)). The definition of "gasoline" in ARS section 41–2121(5) is as inclusive as the existing SIP definition in AAC R4–31–901(5), except for the explicit exclusion of E85. Given that E85 can only be used by FFVs, and based on our proposed "widespread use" determination with respect to the FFV fleet in the Phoenix area that would be fueled at E85 dispensing pumps, we find the exception for E85 from the definition of "gasoline" acceptable under section 182(b)(3). Moreover, to allow for the distribution and sale of E85 in the Phoenix area, a change in the term of "gasoline" (to exclude E85) for stage II vapor recovery purposes alone would not have sufficed. Because of the boutique fuel requirements of Arizona CBG that have been approved into the Arizona SIP, a change in the definition of "gasoline" as a motor fuel (to exclude E85) was also necessary.

¹⁵ Janet Yanowitz and Robert L. McCormick, "Effect of E85 on Tailpipe Emissions from Light-Duty Vehicles," *Journal of the Air & Waste Management Association*, Volume 59, February 2009, pages 172–182.

which provides us with insight into the potential emissions effects.

The E85 Vehicle Emissions Study compiled the results from previous published studies but also analyzed a significantly larger database compiled by EPA for vehicle certification purposes. Though the results vary by pollutant and between "tier 1" (i.e., model year (MY) 1994–2003) and "tier 2" (MY 2004–2008) vehicles, in general, the study suggests that FFVs emit fewer oxides of nitrogen (NO_x), carbon monoxide, and particulate matter (PM) relative to the same FFVs using gasoline. However, with respect to VOCs, FFVs may well emit greater VOCs than the same FFVs using gasoline [based on the measurement results for non-methane organic gases (NMOGs)].¹⁶

Thus, with respect to nitrogen dioxide, carbon monoxide and particulate matter, because emissions using E85 would be lower than those using CBG, the incremental substitution of CBG with E85 would not interfere with RFP or attainment of the ambient standards for those pollutants.

We also believe that the net effect on ozone conditions in the Phoenix 8-hour ozone nonattainment area would be beneficial despite the potential higher VOC emission rate by E85-fueled FFVs (relative to CBG-fueled FFVs) because of the offsetting effect of NO_x emissions reductions (from use of E85 relative to Arizona CBG) and because of the extension of Stage II vapor recovery requirements to "Area A," an area that is larger than the area formerly designated as nonattainment for the 1-hour ozone standard and that includes the fast-growing region west of the City of Phoenix.¹⁷

Therefore, we have determined that this SIP revision, including the change in the definition of "gasoline" to exclude "E85," would not interfere with

¹⁶ Ethanol itself contains no lead (Pb) or sulfur, but the ethanol portion of E85 does contain some Pb and sulfur due to the addition of a denaturant, which can comprise up to 5% of the ethanol portion of E85. The denaturant used by ethanol producers is typically gasoline (either RFG or conventional gasoline, depending on where the ethanol plant is located), which has sulfur and Pb specifications similar to those for CBG. Therefore, a gallon of E85 would have less sulfur and Pb than a gallon of CBG (due to the dilution provided by the ethanol), and thus the emissions of sulfur dioxide and Pb from use of E85 in FFVs would be less than the corresponding emissions from use of CBG in those vehicles. Therefore, there would be no interference with RFP or attainment of the Pb and sulfur dioxide NAAQS.

¹⁷ As submitted in 1993, ARS section 41–2132(C) established the stage II vapor recovery requirement within the ozone nonattainment area, but the current version of this statute, which is included in today's proposed approval, extends the requirement to "Area A."

RFP and attainment for any of the NAAQS.

C. Correction of Previous Rulemaking

On November 1, 1994, we took direct final action to approve the administrative rules adopted by the Arizona Department of Weights and Measures providing for the installation and operation of stage II vapor recovery systems. 59 FR 54521, November 1, 1994. We incorporated the approved rules into the Arizona SIP by adding a new paragraph (69) to 40 CFR 52.120(c), which reads: "Maricopa County Bureau of Air Pollution Control stage II vapor recovery program, adopted on August 27, 1993." The descriptive reference in paragraph (69) was erroneous in that administrative rules governing the vapor recovery program in the Phoenix metropolitan area in Maricopa County, and adopted on August 27, 1993, were adopted by the Arizona Department of Weights and Measures, not the Maricopa County Bureau of Air Pollution Control (since renamed the Maricopa County Air Quality Department). Moreover, the descriptive reference to the vapor recovery program alone does not inform the public and regulated community that our approval relates to specific rules, and thus is potentially confusing to the public and regulated community as to the contents of the SIP.

We are therefore, under section 110(k)(6) and 301(a) of the Clean Air Act,¹⁸ proposing to correct our previous codification of our approval of the stage II vapor recovery rules adopted by ADWM on August 27, 1993, and submitted by ADEQ on May 27, 1994, to identify the appropriate regulatory agency and to identify the specific rules that were approved.

III. Proposed Action and Request for Public Comment

As authorized in section 110(k)(3) of the Act, EPA is proposing to approve the statutory provisions and updated administrative rules establishing certain vapor recovery requirements in the Phoenix metropolitan area as a revision to the Arizona SIP. Specifically, we are proposing to approve Arizona Revised Statutes (ARS) sections listed in table 1

¹⁸ Section 110(k)(6) of the CAA provides that, whenever EPA determines that the Agency's action approving, disapproving, or promulgating any plan or plan revision, area designation, redesignation, classification, or reclassification was in error, EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Section 301(a) of the CAA authorizes EPA to prescribe such regulations as are necessary to carry out the Agency's functions under the CAA.

of this document and the Arizona Administrative Code (AAC) sections listed in table 2 of this document.¹⁹ Second, as authorized under CAA section 202(a)(6), we are proposing to waive the stage II vapor recovery requirements at E85 dispensing pumps in the Phoenix area under CAA section 202(a)(6) based on our conclusion that ORVR is in widespread use among the FFVs that use such facilities.

In so doing, we propose to conclude that the submitted statutory provisions and updated administrative rules meet the related requirements for stage II vapor recovery under CAA section 182(b)(3) and would not interfere with attainment and RFP of any of the NAAQS or any other CAA applicable requirement, consistent with the requirements of CAA section 110(l). Final EPA approval of the updated statutory provisions and rules and incorporation of them into the Arizona SIP would make them federally enforceable.

Lastly, under section 110(k)(6) and 301(a) of the CAA, we are proposing to correct and clarify the incorporation of the previous version of these administrative rules into the Arizona SIP.

We will accept comments from the public on this proposed approval for the next 30 days.

IV. Statutory and Executive Order Reviews

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

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 19, 2011.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 2011-25397 Filed 9-30-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0580; FRL-9468-1]

Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District, Ventura County Air Pollution Control District, and Placer County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Sacramento Metropolitan Air Quality Management District (SMAQMD), Ventura County Air Pollution Control District (VCAPCD), and Placer County Air Pollution Control District (PCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from organic chemical manufacturing, soil decontamination, and polyester resin operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 2, 2011.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2011-0580, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and

¹⁹Our proposed approval of the statutory provisions and administrative rules would supersede the previously-approved versions of the administrative rules in the Arizona SIP (i.e., AAC Article 9 ("Gasoline Vapor Control"), Rules R4-31-901 through R4-31-910, adopted by the Arizona Department of Weights and Measures on August 27, 1993, submitted on May 27, 1994, and approved on November 1, 1994 (59 FR 54521).