

it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *August 13, 2012*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

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

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

Dated: April 11, 2012.

**Lisa P. Jackson**,  
Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 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 revising paragraph (c)(69)(i)(A) and adding paragraph (c)(148) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(69) \* \* \*  
(i) \* \* \*

(A) *Arizona Department of Weights and Measures.* (1) Letter from Grant Woods, Attorney General, State of Arizona, to John U. Hays, Director, Department of Weights and Measures, dated August 31, 1993, and enclosed Form R102 ("Certification of Rules and Order of Rule Adoption").

(2) Arizona Administrative Code, Article 9 ("Gasoline Vapor Control"), Rules R4-31-901 through R4-31-910, adopted August 27, 1993, effective (for state purposes) on August 31, 1993.

\* \* \* \* \*

(148) The following plan revision was submitted on September 21, 2009 by the Governor's designee.

(i) *Incorporation by reference.* (A) *Arizona Department of Weights and Measures.* (1) Arizona Revised Statutes, title 41 (State Government), chapter 15 (Department of Weights and Measures), as amended and supplemented by the general and permanent laws enacted through the First Special Session, and legislation effective January 11, 2011 of the First Regular Session of the Fiftieth Legislature (2011):

(i) Article 1 (General Provisions), section 41-2051 ("Definitions"), subsections (6) ("Certification"), (10) ("Department"), (11) ("Diesel fuel"), (12) ("Director"), and (13) ("E85"), amended by Laws 2008, Ch. 254, § 2;

(ii) Article 6 (Motor Fuel), section 41-2121 ("Definitions"), subsection (5) ("Gasoline") amended by Laws 2007, Ch. 292, § 11; and

(iii) Article 7 (Gasoline Vapor Control), section 41-2131 ("Definitions"), added by Laws 1992, Ch. 299, § 6; section 41-2132 ("Stage I and stage II vapor recovery systems"), amended by Laws 2010, Ch. 181, § 2; and section 41-2133 ("Compliance schedules"), amended by Laws 1999, Ch. 295, § 17.

(2) Arizona Administrative Code, title 20, chapter 2, article 1 (Administration and Procedures), section R20-2-101 ("Definitions"), effective (for state purposes) on June 5, 2004.

(3) Arizona Administrative Code, title 20, chapter 2, article 9 (Gasoline Vapor Control):

(i) Sections R20-2-901 ("Material Incorporated by Reference"), R20-2-902 ("Exemptions"), R20-2-903 ("Equipment and Installation"), R20-2-904 ("Application Requirements and Process for Authority to Construct Plan Approval"), R20-2-905 ("Initial Inspection and Testing"), R20-2-910

("Annual Inspection and Testing"), R20-2-911 ("Compliance Inspections"), and R20-2-912 ("Enforcement"), effective (for state purposes) on June 5, 2004.

(ii) Sections R20-2-907 ("Operation"), R20-2-908 ("Training and Public Education"), and R20-2-909 ("Recordkeeping and Reporting"), effective (for state purposes) on October 8, 1998.

[FR Doc. 2012-14148 Filed 6-12-12; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR 52

[EPA-R09-OAR-2012-0253; FRL-9682-5]

### Approval of Air Quality Implementation Plan; Arizona; Attainment Plan for 1997 8-Hour Ozone Standard

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a state implementation plan (SIP) revision submitted by the State of Arizona on June 13, 2007, to demonstrate attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) in the Phoenix-Mesa nonattainment area by June 15, 2009. This action was proposed in the **Federal Register** on April 11, 2012. EPA is approving the submitted SIP revision based on our determination that it contains all of the SIP elements required for ozone nonattainment areas under title I, part D, subpart 1 of the Clean Air Act (CAA) for the 1997 8-hour ozone NAAQS.

**DATES:** This rule is effective on July 13, 2012.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2012-0253 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (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:**

Anita Lee, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3958, [lee.anita@epa.gov](mailto:lee.anita@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

**I. Proposed Action**

On April 11, 2012 (70 FR 21690), EPA proposed to approve the “Eight-Hour Ozone Plan for the Maricopa Nonattainment Area” (2007 Ozone Plan) submitted as a SIP revision by the Arizona Department of Environmental Quality (ADEQ) on June 13, 2007. We proposed to approve the 2007 Ozone Plan based on our determination that it contains all of the plan elements required for ozone nonattainment areas under title I, part D, subpart 1 of the CAA, including the demonstration of reasonably available control measures (RACM), reasonable further progress (RFP), emission inventories, transportation conformity motor vehicle emission budgets for 2008, and contingency measures to be implemented if the Phoenix-Mesa nonattainment area fails to attain by June 15, 2009.

**II. Public Comments and EPA Responses**

EPA provided a 30-day public comment period on our proposed action. This comment period ended on May 11, 2012. We received no comments.

**III. EPA Action**

Under CAA section 110(k)(3), EPA is fully approving the 2007 Ozone Plan for Phoenix-Mesa based on our determination that it meets all applicable requirements under subpart 1 of part D, title I of the CAA for the 1997 8-hour ozone NAAQS, as follows:

1. The 2002 base year emission inventory as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.915;
2. The reasonably available control measures demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.912(d);
3. The reasonable further progress demonstration as meeting the requirements of CAA section 172(c)(2) and 40 CFR 51.910;

4. The attainment demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.908;

5. The contingency measures for failure to make RFP or to attain as meeting the requirements of CAA section 172(c)(9); and

6. The motor vehicle emission budgets for the attainment year of 2008, which are derived from the attainment demonstration, as meeting the requirements of CAA section 176(c) and 40 CFR part 93, subpart A.

**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 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 (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 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.

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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 13, 2012. 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. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Nitrogen dioxide, Volatile organic compounds.

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

Dated: May 25, 2012.

**Jared Blumenfeld,**

*Regional Administrator, EPA Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 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)(149) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(149) The following plan was submitted on June 13, 2007 by the Governor's designee.

(i) [Reserved]

(ii) *Additional Materials.* (A) *Arizona Department of Environmental Quality.*

(1) Letter dated June 13, 2007 from Stephen A. Owens, Director, ADEQ, to Wayne Nastri, Regional Administrator, United States Environmental Protection Agency, Region IX.

(2) Eight-Hour Ozone Plan for the Maricopa Nonattainment Area, dated June 2007, including Appendices, Volumes One and Two.

[FR Doc. 2012-13817 Filed 6-12-12; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R03-OAR-2011-0091, EPA-R03-OAR-2011-0584; FRL-9685-2]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Regional Haze State Implementation Plan**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the limited approval of the Commonwealth of Virginia's Regional Haze State Implementation Plan (SIP) revision. EPA is taking this action because Virginia's SIP revision, as a whole, strengthens the Virginia SIP. This action is being taken in accordance with the requirements of the Clean Air Act (CAA) and EPA's rules for states to prevent and remedy future and existing anthropogenic impairment of visibility in mandatory Class I areas through a regional haze program. EPA is also approving this revision as meeting the infrastructure requirements relating to visibility protection for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) and the 1997 and

2006 fine particulate matter (PM<sub>2.5</sub>) NAAQS.

**DATES:** This final rule is effective on July 13, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2011-0091, EPA-R03-OAR-2011-0584. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Melissa Linden, (215) 814-2096, or by email at [linden.melissa@epa.gov](mailto:linden.melissa@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On January 25, 2012 (77 FR 3691), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed limited approval and limited disapproval of Virginia's Regional Haze SIP. The formal SIP revisions were submitted by the Virginia Department of Environmental Quality (VADEQ) on July 17, 2008, March 6, 2009, January 14, 2010, October 4, 2010, November 19, 2010, and May 6, 2011. This revision also meets the requirements of CAA sections 110(a)(2)(D)(i)(II) and 110(a)(2)(J), relating to visibility protection for the 1997 8-hour ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS.

**II. Summary of SIP Revision**

The SIP revision includes a long term strategy with enforceable measures ensuring reasonable progress towards meeting the reasonable progress goals for the first planning period through 2018. Virginia's Regional Haze Plan contains the emission reductions needed to achieve Virginia's share of emission reductions and sets the reasonable progress goals for other states

to achieve reasonable progress at the two Class I Areas within Virginia, Shenandoah National Park and James River Face Wilderness Area. The specific requirements of the CAA and EPA's Regional Haze Rule (RH rule) (64 FR 35732, July 1, 1999) and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. EPA received numerous adverse comments on the January 25, 2012 NPR. A summary of the comments submitted and EPA's responses are provided in section III of this document.

**III. Summary of Public Comments and EPA Responses**

*Comment:* The commenter argued that EPA's proposed limited approval/limited disapproval action based on Virginia's reliance on clean air interstate rule (CAIR) is unwarranted and should be withdrawn. Instead, the commenter states that EPA should grant full and unconditional approval of the Virginia Regional Haze SIP. The commenter disagreed that CAIR renders the State's SIP unable to satisfy all of the CAA's regional haze SIP requirements. The commenter noted that Virginia's SIP was submitted prior to the remand of CAIR and relied on the requirements under 40 CFR 51.308(e)(4), which remain in effect at this time. The commenter argued that as a result, the Virginia SIP is entirely consistent with the applicable law. The commenter also argued that if the D.C. Circuit invalidates the cross state air pollution rule (CSAPR), EPA's limited disapprovals of regional haze SIPs due to their reliance on the CAIR equals best available retrofit technology (BART) provision of the regional haze rules will have created unnecessary complications for states that should properly be able to continue their reliance on CAIR. The commenter argued that EPA does not have a basis to propose or promulgate disapproval or limited disapproval of a Regional Haze SIP due to its reliance on CAIR and on 40 CFR 51.308(e)(4) because the SIP is fully compliant with the relevant regulations as they exist today.<sup>1</sup> The commenter believes that the only proper course of action for EPA is to promptly promulgate a full and unconditional approval of the Virginia SIP.

*Response:* EPA disagrees with the commenter and has determined the limited approval/limited disapproval is appropriate for this SIP. The requirements for a BART alternative program, specific to trading programs in 40 CFR 51.308(e)(2) state that "such an

<sup>1</sup> The word "today" in the text refers to the date of the comment letter, February 24, 2012.