

November 8, 2010

TO: Members of the MAG Regional Council Executive Committee

FROM: Mayor Thomas Schoaf, City of Litchfield Park, Chair

SUBJECT: MEETING NOTIFICATION AND TRANSMITTAL OF TENTATIVE AGENDA FOR  
THE MAG REGIONAL COUNCIL EXECUTIVE COMMITTEE TELEPHONE  
CONFERENCE CALL MEETING

Monday, November 15, 2010 - 11:00 a.m.  
MAG Office, Suite 200 - Cholla Room  
302 North 1<sup>st</sup> Avenue, Phoenix

A telephone conference call meeting of the MAG Regional Council Executive Committee has been scheduled for the time and place noted above. Members of the Committee may attend the meeting either in person, by telephone conference, or by videoconference.

Please park in the garage under the building. Bring your ticket to the meeting, parking will be validated. For those using transit, the 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.

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 Denise McClafferty at the MAG office. Requests should be made as early as possible to allow time to arrange the accommodation.

If you have any questions regarding the Executive Committee agenda items, please contact me at (623) 935-5033. For MAG staff, please contact Dennis Smith, MAG Executive Director, at (602) 254-6300.

MAG EXECUTIVE COMMITTEE  
TENTATIVE AGENDA  
NOVEMBER 15, 2010

COMMITTEE ACTION REQUESTED

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| <p>1. <u>Call to Order</u></p> <p>The meeting of the Executive Committee will be called to order.</p>  |   |
| <p>2. <u>Call to the Audience</u></p> <p>An opportunity will be provided to members of the public to address the Executive 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 Executive 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.</p> | <p>2. Information and discussion.</p>                     |
| <p>3. <u>Approval of Executive Committee Consent Agenda</u></p> <p>Prior to action on the consent agenda, members of the audience will be provided an opportunity to comment on consent items that are being presented for action. Following the comment period, Committee members may request that an item be removed from the consent agenda. Consent items are marked with an asterisk (*).</p>   | <p>3. Approval of Executive Committee Consent Agenda.</p> |

ITEMS PROPOSED FOR CONSENT  
BY THE EXECUTIVE COMMITTEE

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| <p>*3A. <u>Approval of the October 11, 2010 and October 18, 2010 Executive Committee Meeting Minutes</u></p>   | <p>3A. Review and approval of the October 11, 2010 and October 18, 2010 Executive Committee meeting minutes.</p>  |
| <p>*3B. <u>On-Call Consulting Services Selection for Regional Traffic Data Collection and Data Management</u></p> <p>The Fiscal Year (FY) 2011 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2010, includes \$400,000 for On-call Consulting Services for Regional Traffic Data Collection and Data</p> | <p>3B. Approval of a list of on-call consultants for the Area of Expertise A (Traffic Data Collection): Jacobs Engineering, Lee Engineering, Midwestern Software Solutions, Traffic Research and Analysis and United Civil Group, and for Area of Expertise B (Commercial Traffic Data Purchase and Traffic Data Management Services): American Digital Cartography, Berkeley Transportation Systems,</p> |

Management. The purpose of the project is to facilitate numerous dataset updates to support transportation planning needs. A request for qualifications was advertised on August 20, 2010, for technical assistance in two areas of expertise: (A) Traffic Data Collection and (B) Commercial Traffic Data Purchase and Traffic Data Management Services. Eight proposals were received by the September 22, 2010 deadline. On October 5, 2010, a multi-agency evaluation team recommended to MAG the selection of consultants to perform the technical assistance. This item is on the November 10, 2010 Management Committee agenda to recommend approval. Please refer to the enclosed material.

Jacobs Engineering, Midwestern Software Solutions and Works Consulting, for the MAG Regional Traffic Data Collection and Data Management, for a total amount not to exceed \$400,000.

\*3C. MAG Managed Lanes Network Development Strategy - Phase I

At its October 20, 2010, the Transportation Policy Committee recommended the development of the first phase of the MAG Managed Lanes Network Development Strategy - Phase I and to conduct a public opinion survey on the potential for tolling in the MAG region. In this phase, a System-Wide Managed Lanes Feasibility Study will be developed, assessing existing and future HOV lane use, identifying critical gaps in the HOV system, assessing the basic soundness of a system-wide managed lanes network in the MAG region, formulation recommendations for MAG policy on managed lanes, and selecting pilot managed lane corridors. This item is on the November 10, 2010 Management Committee agenda to recommend approval. Please refer to the enclosed material.

3C. Approval to amend the FY 2011 Unified Planning Work Program and Annual Budget for up to \$500,000 to provide for the MAG Managed Lanes Network Development Strategy - Phase I project. In addition, approval to amend the FY 2011 Unified Planning Work Program and Annual Budget for up to \$50,000 to provide for a public opinion survey on the potential for tolling in the MAG region.

\*3D. MAG Pedestrian and Bicycle Facilities Design Assistance Program On-Call Consultant List

The FY 2011 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2010, includes \$300,000 for the Pedestrian and Bicycle Facilities Design Assistance Program. The MAG Pedestrian and Bicycle Facilities Design Assistance Program On-Call Consultant List provides member agencies with a pre-approved consultant list to provide assistance for their design projects. A request for consultants to submit Statements of Qualifications

3D. Approval of the selection of the following consultants for the MAG Pedestrian and Bicycle Facilities Design Assistance Program On-Call Consultant List: AECOM Technical Services, Inc.; Coffman Studio, LLC; Drake & Associates; e group, Inc.; EPG, Inc.; Gannett Fleming, Inc.; J2 Engineering & Environmental Design, LLC; Kimley-Horn & Associates, Inc.; Logan Halperin Landscape Architecture LLC; Loris & Associates, Inc.; Olsson Associates; Otak, Inc.; PBSJ; Sherman Group, Inc.; Stanley Consultants, Inc.; Stantec Consulting Services, Inc.; The Moore/Swick Partnership; Y.S. Mantri & Associates, LLC.

was published on July 22, 2010. Eighteen submittals were received on August 31, 2010. A multi-agency evaluation team reviewed the applications and recommended all eighteen qualified consultants be selected for the list. This item is on the November 10, 2010 Management Committee agenda to recommend approval. Please refer to the enclosed material.

\*3E. Professional Services Selection for the MAG Protocol Evaluation Project

The FY 2011 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2010, includes \$194,568 to conduct the MAG Protocol Evaluation project that will assess the protocols used to arrest and prosecute misdemeanor domestic violence cases. The budget for this project includes \$21,500 for services to evaluate current protocols, analyze existing data collection elements, evaluate promising practices, and conduct an overall project evaluation. A Request for Proposals was advertised on August 19, 2010, and six proposals were received. A multi-agency proposal evaluation team reviewed the proposal documents and held three interviews. On October 7, 2010, the proposal evaluation team recommended to MAG the selection of MGT of America, Inc., to complete the evaluation professional services for an amount not to exceed \$21,500. This item is on the November 10, 2010 Management Committee agenda to recommend approval. Please refer to the enclosed material.

\*3F. Update on the EPA Proposed Partial Approval and Disapproval of the MAG 2007 Five Percent Plan for PM-10

On September 3, 2010, the Environmental Protection Agency (EPA) signed a notice to propose partial approval and disapproval of the MAG 2007 Five Percent Plan for PM-10 based on the timetable in the consent decree with the Arizona Center for Law in the Public Interest. The notice was published in the Federal Register on September 9, 2010, and comments were due by October 20, 2010. If EPA finalizes the partial disapproval on January 28, 2011, a conformity freeze on the MAG Transportation Improvement

3E. Approval of the selection of MGT of America, Inc., to conduct the evaluation professional services for the MAG Protocol Evaluation project for an amount not to exceed \$21,500.

3F. Information and discussion.

Program (TIP) and Regional Transportation Plan (RTP) would occur in approximately thirty days; only projects in the first four years could proceed. If the problem is not corrected within eighteen months, tighter controls on major industries would be imposed. If the problem is still not corrected within twenty-four months of the disapproval, the loss of federal highway funds (\$1.7 billion) and a federal implementation plan would be imposed. Conformity would also lapse, which would place the \$7.4 billion TIP at risk. On October 20, 2010, MAG, ADEQ, Maricopa County, and Gila River Indian Community submitted comments into the public record. Other comments were also submitted. In addition, EPA has responded to some of the questions from MAG, ADEQ, and Maricopa County regarding a Revised Five Percent Plan for PM-10. Please refer to the enclosed material.

ITEMS PROPOSED TO BE HEARD  
BY THE EXECUTIVE COMMITTEE

4. MAG Committee Chair and Vice Chair  
Appointments ending December 31, 2010

On July 22, 2009, the MAG Regional Council approved the MAG Committee Operating Policies and Procedures. Officer appointments for technical and other policy committees, with exception of the MAG Regional Council, Transportation Policy Committee, and Management Committee, will be made by the MAG Executive Committee and are eligible for one-year terms, with possible reappointment to serve up to one additional term by consent of the respective committee. These appointments will be staggered to assist with continuity, appointing approximately half of the committee officers in June each year and the remainder in January, unless a vacancy occurs.

A memorandum was sent to the technical and policy committee members whose chairs and vice chairs expire in January explaining that the members had two options: 1) recommend reappointment of the current chair and vice chair to serve a second one-year term, or 2) have the vice chair ascend to the chair position and have a new vice chair appointed by the Regional Council Executive Committee. An update on the

4. Approval of appointments of the technical and policy committee chairs and vice chairs ending December 31, 2010.

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committees' recommendations will be provided.  
Please refer to the enclosed material.

5. Annual Performance Review of the MAG Executive Director

The employment agreement entered into with the MAG Executive Director in January 2003 provided that the Executive Committee conduct an annual performance review in consultation with the Regional Council. On December 15, 2003, the Executive Committee approved an evaluation survey for the MAG Executive Director's performance review. The process for conducting the annual evaluation and salary review will be discussed. Please refer to the enclosed material.

6. Request for Future Agenda Items

Topics or issues of interest that the Executive Committee would like to have considered for discussion at a future meeting will be requested.

7. Comments from the Committee

An opportunity will be provided for the Executive Committee members to present a brief summary of current events. The Executive Committee is not allowed to propose, discuss, deliberate or take action at the meeting on any matter in the summary, unless the specific matter is properly noticed for legal action.

Adjournment

5. Information, discussion and possible action to proceed with the process for the performance review for the MAG Executive Director.

6. Information and discussion.

7. Information

MINUTES OF THE  
MARICOPA ASSOCIATION OF GOVERNMENTS  
SPECIAL MAG REGIONAL COUNCIL EXECUTIVE COMMITTEE  
October 11, 2010  
MAG Offices, Cholla Room  
302 N. 1<sup>st</sup> Avenue, Phoenix, Arizona

MEMBERS ATTENDING

#Mayor Thomas L. Schoaf, Litchfield Park,  
Chair  
# Mayor Hugh Hallman, Tempe, Vice Chair  
#Mayor Marie Lopez Rogers, Avondale,  
Treasurer

#Mayor Jim Lane, Scottsdale  
#Mayor Michael LeVault, Youngtown  
#Councilwoman Peggy Neely, Phoenix  
#Mayor Scott Smith, Mesa

\* Not present

# Participated by video or telephone conference call

1. Call to Order

The Executive Committee meeting was called to order by Chair Schoaf at 8:35 a.m. Chair Schoaf stated that public comment cards were available for those members of the public who wish to comment. Transit tickets were available from Valley Metro for those using transit to come to the meeting. Parking validation was available from MAG staff for those who parked in the parking garage.

2. Call to the Audience

Chair Schoaf stated that, according to the MAG public comment process, members of the audience who wish to speak are requested to fill out the public comment cards. He stated that there is a three-minute time limit. Public comment is provided at the beginning of the meeting for items that are not on the agenda that are within the jurisdiction of MAG, or non-action agenda items that are on the agenda for discussion or information only. Chair Schoaf noted that no public comment cards had been received.

3. Air Quality Update and Petition for Reconsideration

Dennis Smith stated that after sending out the notice for this meeting, staff had learned that the administrator from Region IX was going to extend the public comment period to October 20, 2010, which is about a six day extension. He noted that there was an extensive meeting on Friday with the representatives from the EPA Ann Harbor office, headquarters at Research Triangle Park, and the Region Nine office, where we walked them through the issues that are confronting this region. Mr. Smith stated that there was a Petition for Reconsideration drafted by Quarles & Brady LLP that was submitted to Crowell & Moring for further review. He noted that the petition has

been sent over to ADEQ. Mr. Smith introduced Michelle DeBlasi who updated the Committee on discussions with ADEQ. Ms. DeBlasi explained that a Petition for Reconsideration is asking EPA to reconsider their exceptional events determination. There is no legal provision for it, but it is a construct that is a way to challenge their legal decision. She explained that the exceptional events determination is a separate rule that EPA pulled into the proposed partial disapproval of the Five Percent Plan. Ms. DeBlasi explained that the original intent of the petition was to put on the record all of the arguments against EPA's determination and the way they made the determination. She noted that in speaking with ADEQ, it was indicated that they are uncomfortable filing a petition and ADEQ does not want to do anything that appears as if it is a law suit. Ms. DeBlasi stated that from a legal perspective, it is much more important to have everyone included on the comments, than to have a separate petition by MAG alone.

Vice Chair Hallman summarized what he heard is that if the document is turned into a letter then ADEQ would sign on, and the major portion is that we have to get the comments filed so that we preserve our rights if a lawsuit is necessary. Ms. DeBlasi stated that it correct. She noted that we have not seen ADEQ's comments yet, but we are working with ADEQ to get some component of the comments submitted jointly. She noted that we will turn the petition into a letter that will have an outline of all the comments and hopefully ADEQ will sign the letter. The letter will list all the comments that everyone has and then attach the full comments with the administrative record and all other attachments. Mr. Smith stated that what we are recommending is that each of the agencies, Maricopa County Air Quality Division, MAG and ADEQ sign a joint letter that crystallizes all of the arguments and then we can each have our own individual letters attached as well. Chair Schoaf stated that he agrees and that there is no reason to make up a new step that is not part of the process, especially if we have agreement from all of our partners. He also noted that as a committee, we should encourage our staff to work to find consensus among ADEQ, the County and MAG, so that we can have a set of joint comments that can be in addition to all of the individual comments. Vice Chair Hallman stated that his concern is in terms of providing the business community with a joint set, lets focus on a formal document that comes out of the process itself then instead focus on some type of easy to use easy to understand document that compiles all the comments in some sensible order that can identify who is the sponsor of those comments. He noted that it is most important to make sure that the business community, and ultimately the press, understands, as clearly as possible, the basis for the complaints and comments. Vice Chair Hallman also stated that we need to make sure, even if our partners do not agree, that every possible ground and claim is made. He noted that the worst thing that could happen is that we fail to make a claim that ultimately could have been the winning agreement or the biggest help in protecting our interests. He agreed to direct staff to work cooperatively with ADEQ and the County, but cautioned sacrificing legal position for friendship. Chair Schoaf stated that there was no intended suggestion to sacrificing anything. He noted that Vice Chair Hallman summarized it well in stating that there will be two steps; the first step is to get a set of joint comments that all three agencies sign-off on and the second step is to get together all MAG's comments to submit individually. He noted that we should also establish talking points that fully explain MAG's position that we are able to provide to business allies and the press.

Councilwoman Neely stated that it is her understanding that since we have additional time, if this committee were to allow this process to take place as letters, we could still come back to the petition process. Chair Schoaf stated that there is time to do that. However, what he understood

is that there is no real advantage to doing that because our comments will be on the record either way. Ms. DeBlasi stated that Councilwoman Neely was correct in stated that if the other agencies decide not to submit a joint letter, MAG could revisit the idea of submitting a petition in addition to the letter. She noted that it may seem redundant, but it is additional leverage. Councilwoman Neely stated that is the avenue that she would prefer. Chair Schoaf stated that this item will be on the next Executive Committee agenda.

Mayor Smith asked if the communication was going to be in letter form as oppose to a petition. Ms. DeBlasi stated that was correct. She noted that the idea is to have ADEQ comfortable to sign on to the letter by softening it, but have the same substantive arguments. She stated that the letter would be a summary of all the different arguments, crystallizing the arguments into one place so that it is a very clear indication of what the parties are signing onto together, and then have individual comments as well. Mayor Smith suggested softening it a lot. He noted that if our purpose is to get onto the record by a certain date and state our position, there is probably no reason to be contentious. Vice Chair Hallman stated that he concurs with Mayor Smith. Mayor Smith added that we will not win a technical agreement at this stage. He noted that we will find some way to compromise. He also stated that if there is a solution to be had, he believes that one of two things could happen: 1) EPA will look for some area where they can work with us and give us more time, or 2) we will get to the end and EPA will not do that. He noted at that point is when we get tough. Vice Chair Hallman agreed, but emphasized the need to get all comments on the record. Councilwoman Neely agreed with Mayor Smith and Vice Chair Hallman. She also noted that the goal is to make sure that we bring all of our partners, including the business community if possible, with us down this road so that we are not at a point during this comment period that we are a target. Councilwoman Neely also agreed that we need to keep our options open at the end should we need them.

Chair Schoaf asked if staff had sufficient direction to move forward. Mr. Smith replied that staff and counsel heard the comments and think we have direction from the Committee. He noted that October 18, 2010 is the next Executive Committee meeting. Mr. Smith stated that we would hope to have the draft letter prepared to walk into that meeting. He noted that our goal is to get the three agency signatures, and if we are unsuccessful, we will report that at the October 18th meeting and go from there. Vice Chair Hallman asked we could get the information prior to the meeting as opposed to walking it into the meeting. Mr. Smith stated that we will make every effort to send the information out as early as possible. He noted that working with two other agencies sometimes makes that difficult. Vice Chair Hallman noted that he understood.

4. Request for Future Agenda Items

Chair Schoaf asked if there were any requests for future agenda items. There were none.

5. Comments from the Committee

Chair Schoaf asked if there were any comments for the committee members. There were no comments.

Adjournment

Mayor Hallman moved to adjourn the Executive Committee meeting. Mayor Lopez Rogers seconded the motion and it carried unanimously. There being no further business, the Executive Committee adjourned at 8:50 a.m.

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Chair

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Secretary

MINUTES OF THE  
MARICOPA ASSOCIATION OF GOVERNMENTS  
MAG REGIONAL COUNCIL EXECUTIVE COMMITTEE  
October 18, 2010  
MAG Offices, Cholla Room  
302 N. 1<sup>st</sup> Avenue, Phoenix, Arizona

MEMBERS ATTENDING

Mayor Thomas L. Schoaf, Litchfield Park,  
Chair  
Mayor Hugh Hallman, Tempe, Vice Chair  
Mayor Marie Lopez Rogers, Avondale,  
Treasurer

Mayor Jim Lane, Scottsdale  
Mayor Michael LeVault, Youngtown  
Councilwoman Peggy Neely, Phoenix  
Mayor Scott Smith, Mesa

\* Not present

# Participated by video or telephone conference call

1. Call to Order

The Executive Committee meeting was called to order by Chair Schoaf at 12:00 p.m. Chair Schoaf stated that public comment cards were available for those members of the public who wish to comment. Transit tickets were available from Valley Metro for those using transit to come to the meeting. Parking validation was available from MAG staff for those who parked in the parking garage.

2. Call to the Audience

Chair Schoaf stated that, according to the MAG public comment process, members of the audience who wish to speak are requested to fill out the public comment cards. He stated that there is a three-minute time limit. Public comment is provided at the beginning of the meeting for items that are not on the agenda that are within the jurisdiction of MAG, or non-action agenda items that are on the agenda for discussion or information only. Chair Schoaf noted that no public comment cards had been received.

3. Consent Agenda

Chair Schoaf noted that prior to action on the consent agenda, members of the audience are provided an opportunity to comment on consent items that are being presented for action. Following the comment period, Committee members may request that an item be removed from the consent agenda. Chair Schoaf noted that no public comment cards had been received.

Chair Schoaf requested a motion to approve the consent agenda. Mayor LeVault moved to approve items #3A through #3C. Mayor Lopez Rogers seconded the motion and the motion carried unanimously.

3A. Approval of the September 13, 2010 Executive Committee Meeting Minutes

The Regional Council Executive Committee, by consent, approved the September 13, 2010 Executive Committee meeting minutes.

3B. Consultant Selection for the MAG Freight Transportation Framework Study

The Executive Committee, by consent, approved the selection of Parsons Brinckerhoff to conduct the Freight Transportation Framework Study for an amount not to exceed \$500,000. The FY 2011 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2010, includes \$500,000 to conduct the Freight Transportation Framework Study that will examine freight and multimodal opportunities in the Sun Corridor. This study will develop a multimodal freight transportation framework for the study area that will likely be implemented at multiple jurisdictional levels and examine opportunities for an inland port. A Request for Proposals was advertised on August 19, 2010, and seven proposals were received. A multi-agency proposal evaluation team reviewed the proposal documents and held interviews. On October 5, 2010, the proposal evaluation team recommended to MAG the selection of Parsons Brinckerhoff to complete the study for an amount not to exceed \$500,000.

3C. Don't Trash Arizona Litter Prevention and Education Contract Amendment

The Executive Committee, by consent, approved the amendment of the consultant contract with RIESTER for one additional year for the Litter Prevention and Education Program to include \$300,000 budgeted in the MAG FY 2010 Unified Planning Work Program and Annual Budget for litter prevention and education. It costs our region more than \$3 million every year to pick up litter from our regional freeway system. Proposition 400 includes funding for a litter prevention and education program designed to increase awareness of the health, safety, environmental and economic consequences of freeway litter and ultimately change the behavior of offenders. The Don't Trash Arizona Litter Education and Prevention program is implemented by MAG in cooperation with the Arizona Department of Transportation (ADOT). In September 2008, the Regional Council approved the selection of RIESTER as the consultant to design and implement the Litter Prevention and Education Program. Staff recommends amending the consultant contract with RIESTER for one additional year for the Litter Prevention and Education Program and to include the \$300,000 budgeted in the FY 2011 Unified Planning Work Program and Annual Budget for litter prevention and education efforts. This item was on the October 13, 2010 Management Committee agenda for recommendation to approve.

4. MAG Economic Development Committee

Chair Schoaf stated that when this committee was presented to the Regional Council there were a number of questions. He noted that it was approved in part and sent back to the Executive Committee in part. He noted that the specific issues to be addressed by the Executive Committee have been outline in the memorandum attached to this agenda item. Chair Schoaf stated that the first item is generally to make sure that the Executive Committee members are all on the same page before we move forward to Regional Council. He stated that would be to clarify that the mission

statement is as broad as Maricopa County and not limited to the Sun Corridor. Councilwoman Neely agreed that the idea was that it has always been broad including all of Maricopa County. She confirmed that the EDC would discuss economic development throughout Maricopa County. Councilwoman Neely stated that at the High Speed Rail Conference she learned that the National Chamber of Commerce has done some studies that show that infrastructure does drive the economy. She asked if staff could obtain that information to distribute to the Executive Committee. She noted that is important for everyone to understand as we move forward with this committee. Vice Chair Hallman stated that the memorandum does make it clearer as to the focus of the EDC. He noted that this is not about creating some master economic development committee that will take over all of the cities economic development activities. He stated that this committee is focused in the County but tied to multimodal transportation.

Chair Schoaf moved on to the second issue that refers to the continuity of leadership of the EDC. He noted the way it has been tentatively approved is that the chair of the EDC will be the past chair of the Regional Council; the chair of the Regional Council is not a member of the EDC, which means that the vice chair of the EDC may or may not be the current chair of the Regional Council; and that the vice chair will not, as a matter of course, always ascend to becoming the chair of the EDC. Chair Schoaf noted that this is different than every other committee set up at MAG, and it does not follow the MAG Committee Policies and Procedures adopted by the MAG Regional Council. Chair Schoaf noted the second issue is one of whether it is wise to set up a committee that has a two-year sunset and will go through two different chairs during that time period, and possibly three different chairs depending on whether the past chair is able to serve between now and June. He noted that his concern is having multiple chairs in a very short period of time and having not continuity. Councilwoman Neely noted that could apply to any officer on the committee and making decisions on hypothetical scenarios is not a fair way to do business.

Chair Schoaf expressed his concern about the natural process of change and in this committee it is done differently. He offered a proposed solution from the West Valley Mayors and Managers meeting that suggested during the first two years of the EDC, the wisest course would be to have the MAG elected representatives be the Executive Committee members plus Maricopa County. Chair Schoaf stated that this accomplishes the natural order of ascension and consistency. He stated that he believes that consistency is important to get this committee off the ground and have it function well enough that it justifies not being sunset in two years. Vice Chair Hallman stated that the time spent approving the MAG Committee Policies and Procedures was important. He noted that he hesitates to make further changes and does not think duplicating the Executive Committee makes much sense. Mayor LeVault thanked Councilwoman Neely for reiterating that this will truly be a regional effort. He stated that he is not so much concerned with the ascension of officers as he is with the agenda that they pursue. He noted that will be what defines this committee as we move forward. He also noted that there was clearly an issue at the last Regional Council meeting regarding the makeup and the ascension of officers of the committee. He stated that he hopes that this can be worked through because the work of this committee is critical to the region. Mayor Lopez Rogers stated that we worked hard to develop the policies and procedures and believes that they should be followed. She noted that it makes more sense to have both the immediate past chair and the chair of the Regional Council on the EDC. Mayor Lopez Rogers stated that it is important to keep the continuity of the EDC and supports options three.

Dennis Smith commented that it was eye opening to be at the High Speed Rail Conference. He stated that both Salt Lake and Denver attended the conference and neither one of those cities have the population of this region and they are both pass us in this type of effort. Mr. Smith stated that hopefully we can get past the house keeping today because we have big issues in this region and we need to get focused on infrastructure and the economy. He noted that this region has a lot in common with the Intermountain West. Mr. Smith stated that we do need leadership in this committee and option three gets us in alignment with the Policies and Procedures, if that is the goal. He stated that his hope is to come out of this meeting with a unanimous recommendation to the Regional Council. Mr. Smith noted that we are not that far down the road and appointment letters have not been sent out yet, therefore we do not have to have this committee if that is the wish of the Executive Committee. He stated that he truly believes that we need to do this effort. He also stated that we need to be talking to other leaders in the community that are working on this type of effort. He noted that it is interesting that the Arizona Commerce Authority does not have one local government official on that committee. He stated that he was reminded by one of the Mayors in this region that economic development really happens at the city level. Mr. Smith stated that in order have our voices heard we need to create our own efforts.

Mayor Smith referenced the composition of the EDC and noted that this has a transportation component to it and maybe a leader from the Transportation Policy Committee (TPC) should also sit on this committee. He also noted that the letters submitted for interest are basically from the Executive Committee members. Mayor Smith stated his concern about the appearance that this was not an open process. Vice Chair Hallman agreed with Mr. Smith that we need to move forward to the Regional Council with a unanimous recommendation. He suggested replacing the treasurer with chair of the Regional Council to provide that continuity. Chair Schoaf stated that the question now is it better long-term policy for us to follow the ascension process that we have in every other committee. He agreed that getting others involved, including leaders from the TPC, is a positive thing. However, the chair and vice chair of the TPC also sit on the Executive Committee. Mayor Smith stated that he understood the thought of not making the EDC too large, but he would rather have the right people on this committee even if that means increasing the size of the committee. He stated that he feels strongly that there should be a separate leader and that the ascension can still work. Mayor Smith suggested the chair or vice chair from the TPC be added to the composition of the EDC, as well as two more members in both the East and West Valley section. This allows us to add members that are not members of the Executive Committee. Chair Schoaf stated that we can all take a lesson from this and that we did not do a very good job through our process to fully vet all the issues. He noted that we were working with the committee size that was brought to us by the working group. Mayor Smith stated that he was part of that working group and we did not look at individuals that would serve on this committee. He noted that the working group determined a workable size of the committee and concentrated on the leadership. Mayor Smith stated that he is in support of expanding the EDC composition and that does not change the philosophy or what we want to accomplish.

Councilwoman Neely stated that she thinks the working group came back with good suggestions based upon the discussion that we did not want the EDC to be too large. She believes that the working group did a good job in laying the foundation for this committee and what we found was that there was a lot of interest to be part of the EDC. Councilwoman Neely stated that she would agree with Mayor Smith that we could look to expand the composition. She noted that as long as

she has been involved in MAG, she has not seen this much interest in an item and that says something about this effort. Vice Chair Hallman made a recommendation to include both the chair and vice chair of the TPC. He then went on with the full recommendation that the MAG member agency elected officials shall include the chair, vice chair and immediate past chair of the Regional Council. The chair of the EDC will be the immediate past chair of the Regional Council and the vice chair of the EDC will be the chair of the Regional Council. Vice Chair Hallman then asked if we should include representation from RPTA and Valley Metro Rail. Mayor Smith stated that the subcommittee had a lengthy discussion on that topic and decided that at this level and what we wanted this committee to accomplish did not go with that level. He noted that there is a level in which they would become extremely relevant, but not as committee members. Vice Chair Hallman asked if we leave it at only including the chair and vice chair of the TPC or add two more slots. Chair Schoaf stated that he would suggest adding two more slots. Mayor Smith agreed and noted that instead of trying to figure out who went where, that we let it play out and adjust when the need arises. He suggested increasing it to 12 MAG member agency elected officials. Mayor Lopez Roger suggested that if the Treasurer was included as an officer then the TPC member would balance the Committee. Chair Schoaf stated that we are looking at a two-year time frame to get this committee organized. He noted that including the chair and vice chair of the TPC then it address including the transportation element. One of the tasks of this committee is to bring back a final proposal after two years that will go to the Regional Council. Mayor Lopez Rogers agreed with including the TPC leaders and also suggested including a member of ADOT. She stated that she believe ADOT needs to be a part of these discussions. Mr. Smith stated that he did have a discussion with John Halikowski when we had the issue about naming the position as an ADOT Representative, which is now Transportation Representative, and he indicated his interest in being involved in this committee. Mr. Smith suggested that we need to be sure that we get someone at a leadership level from ADOT. Mr. Smith asked how you would describe leadership at ADOT. Is that a board member, the Director, the Deputy Director? Mayor Smith responded that would be whoever they believe is driving policy. He stated it should be a transportation leadership position from ADOT and let the Director decide. Mayor Smith suggested that the ADOT representative understands the effort and can think 10, 20 or 30 years into the future.

Vice Chair Hallman moved that the composition of the EDC be 12 MAG member agency elected officials to be appointed by the Regional Council; made up of a representative of the central city, Maricopa County, five West Valley representatives and five East Valley representatives and within that group it shall include the chair, vice chair and immediate past chair of the Regional Council, and the chair and vice chair of the TPC. The vice chair of the EDC will be the chair of the Regional Council. In addition, for the third party representative, we should include a transportation leadership position from ADOT to be selected by the Director of ADOT. Councilwoman Neely seconded the motion and the motion carried unanimously.

Chair Schoaf stated that the committee now needs to make a recommendation on the individuals who submitted letters of interest for the EDC. Vice Chair Hallman moved that the composition of the MAG representation to be recommended to the Regional Council include Mayor Meck, Councilwoman Wolcott, Mayor LeVault, Mayor Lopez Rogers, Mayor Lane, Mayor Schulm, Mayor Lewis and Supervisor Mary Rose Wilcox. The automatic appointments include: Councilwoman Neely (past chair and TPC vice chair), Mayor Schoaf (Regional Council chair), Mayor Hallman (Regional Council vice chair), and Mayor Smith (TPC chair).

Chair Schoaf stated that the final item regarding the EDC is to address the question of why have an EDC and not have the TPC do this work. He noted that staff put together bullet points justifying why we need to do this under a separate committee. Chair Schoaf stated that his thought was if we could get agreement on these bullet points, then it could be included in the Regional Council packet. Chair Schoaf asked that if the Executive Committee members could get their comments to MAG staff so that they can put together a final version to be included in the mailout for Regional Council. Mayor Lopez Rogers suggested that MAG staff make a statement for the record why it would not be feasible to do this work under the TPC. Councilwoman Neely stated that we may need to expand or talk about this at Regional Council to explain that the appointments on the business side of the TPC are through the Legislature and really does not give a lot of flexibility. Chair Schoaf noted that the EDC dramatically increases that level of contact between MAG and the business community and is dramatically different from the TPC. Mayor Smith stated that he believe that we should take a more positive approach. He stated that we should have the tone of this is why we need this committee. He noted that this is a huge opportunity for us to go beyond planning. Mayor Smith stated that as chair of the TPC, he will be the first to say that this effort does not belong in the TPC. He stated that the purpose of this exercise is to come together and mold all the different aspect of an economic future, of which transportation is a key part. Mayor Smith stated that this effort is about what a project or idea means for the entire region and having that connectivity from border to border. Chair Schoaf agreed with Mayor Smith and also noted our responsibility to explain that to the Regional Council. Councilwoman Neely agreed with Mayor Smith that we should focus on the positive and explain the importance of the EDC and the link to the TPC. Vice Chair Hallman stated that should be about why we are forming this committee and why it needs to be its own body. He noted the importance that each member of the Executive Committee serve as an advocate for why this is importance and bring some focused attention to this process. Chair Schoaf asked the Executive Committee to get any comments to staff and that staff put these points together in a concise form for the Regional Council.

5. Update on the EPA Proposed Partial Approval and Disapproval of the MAG 2007 Five Percent Plan for PM-10

Lindy Bauer reported that staff conducted two video conferences in hopes to get EPAs attention. She stated that there has been an extension of the comment period and comments are due this week on Wednesday. Ms. Bauer stated that we have the MAG Regional Council letter that has been circulated and we have received 14 signatures and we are working on getting the rest by close of business today. She noted that we will have a MAG letter signed by Dennis Smith that will transmit the MAG staff comments on EPA's notice. We have about 12 pages of comments defending the Plan and we have shared our comments with the Arizona Department Environmental Quality and also Maricopa County on October 7, 2010. She stated that we did not receive any comments from those agencies on our comments. Ms. Bauer reported that we have a joint letter and this joint letter is envisioned to be signed by all three agencies - MAG, ADEQ and Maricopa County. She noted that this letter hits the big items like the exceptional events, the emissions inventory and the devastating consequences to the region. She stated that we also transmitted some bullet points to the business community; along with a draft of the MAG Regional Council letter so that they would have something to reference should they decide to make comments. Mr. Smith recommended that this might be a good point to go into executive session to talk about some of the other conversations that our legal counsel has had with ADEQ and EPA.

Chair Schoaf requested a motion to move into executive session. Mayor Smith moved for the Executive Committee to go into executive session. Mayor Hallman seconded the motion and the motion carried unanimously. The Executive Committee went into executive session at 1:00 p.m.

The Executive Committee reconvened regular session at 1:48 p.m. No action was taken on this item.

6. Request for Future Agenda Items

Chair Schoaf asked if there were any requests for future agenda items. Councilwoman Neely stated that at the Rail Conference we talked about all the other states that have looked at a plan that includes rail. She requested that staff report on a plan that we would begin to study rail in the future. Mr. Smith stated that one of the comments brought up in one of the presentations was that one of the preliminary studies on rail would be a Vision Proof of Concept. He stated that he is not sure what this would cost. He noted that we would try to determine the viability of rail between Phoenix and Los Angeles or maybe we look at all the routes. Mayor Smith commented that ADOT noted that one of the down sides of not being included in the federal plans is that we did not have any at the state level. He supports putting this on the next agenda. Chair Schoaf asked if there were any other requests for future agenda items. There were none additional requests.

7. Comments from the Committee

Chair Schoaf asked if there were any comments for the committee members. There were no comments.

Adjournment

Vice Chair Hallman moved to adjourn the Executive Committee meeting. Councilwoman Neely seconded the motion and it carried unanimously. There being no further business, the Executive Committee adjourned at 1:50 p.m.

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Chair

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Secretary

# **MARICOPA ASSOCIATION OF GOVERNMENTS**

## **INFORMATION SUMMARY... for your review**

**DATE:**

November 8, 2010

**SUBJECT:**

On-Call Consulting Services Selection for Regional Traffic Data Collection and Data Management

**SUMMARY:**

The Fiscal Year (FY) 2011 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2010, includes \$400,000 for on-call consulting services for regional traffic data collection and data management. The purpose of the project is to facilitate numerous dataset updates to support transportation planning needs. On August 20, 2010, MAG issued a Request for Qualifications to create an on-call consulting list for the project with two areas of expertise: (A) Traffic Data Collection; and (B) Commercial Traffic Data Purchase and Traffic Data Management Services.

MAG received Statements of Qualifications (SOQs) from American Digital Cartography, Berkeley Transportation Systems, Jacobs Engineering, Lee Engineering, Midwestern Software Solutions, Traffic Research and Analysis, United Civil Group and Works Consulting. A multi-agency evaluation team reviewed the SOQs and unanimously recommended to MAG that the following firms be included on a MAG on-call consulting list for Regional Traffic Data Collection and Data Management:

Area of Expertise A (Traffic Data Collection): Jacobs Engineering, Lee Engineering, Midwestern Software Solutions, Traffic Research and Analysis and United Civil Group.

Area of Expertise B (Commercial Traffic Data Purchase and Traffic Data Management Services): American Digital Cartography, Berkeley Transportation Systems, Jacobs Engineering, Midwestern Software Solutions, Works Consulting.

**PUBLIC INPUT:**

No public input has been received.

**PROS & CONS:**

PROS: Creation of the on-call consulting list will enable MAG to conduct data collection and data management required for planning and transportation modeling purposes.

CONS: None.

**TECHNICAL & POLICY IMPLICATIONS:**

TECHNICAL: The data collection will serve as an important input in the regional transportation planning process. It will provide MAG and its member agencies with required vehicle classification data, traffic counts and travel speed information.

POLICY: Timely execution of the data collection will ensure that MAG, its member agencies and general public have timely access to the traffic data required for planning decisions.

**ACTION NEEDED:**

Approval of a list of on-call consultants for the Area of Expertise A (Traffic Data Collection): Jacobs Engineering, Lee Engineering, Midwestern Software Solutions, Traffic Research and Analysis and United Civil Group, and for Area of Expertise B (Commercial Traffic Data Purchase and Traffic Data Management Services): American Digital Cartography, Berkeley Transportation Systems, Jacobs Engineering, Midwestern Software Solutions and Works Consulting, for the MAG Regional Traffic Data Collection and Data Management, for a total amount not to exceed \$400,000.

**PRIOR COMMITTEE ACTIONS:**

This item is on the November 10, 2010 Management Committee agenda to recommend approval of the list of on-call consultants for the Area of Expertise A (Traffic Data Collection): Jacobs Engineering, Lee Engineering, Midwestern Software Solutions, Traffic Research and Analysis and United Civil Group, and for Area of Expertise B (Commercial Traffic Data Purchase and Traffic Data Management Services): American Digital Cartography, Berkeley Transportation Systems, Jacobs Engineering, Midwestern Software Solutions and Works Consulting, for the MAG Regional Traffic Data Collection and Data Management, for a total amount not to exceed \$400,000.

MAG Regional Traffic Data Collection and Data Management Statement of Qualifications (SOQ) Evaluation Team: On October 5, 2010, a multi-agency evaluation team reviewed the SOQs and recommended to MAG approval of the list of on-call consultants:

Area of Expertise A (Traffic Data Collection): Jacobs Engineering, Lee Engineering, Midwestern Software Solutions, Traffic Research and Analysis and United Civil Group.

Area of Expertise B (Commercial Traffic Data Purchase and Traffic Data Management Services): American Digital Cartography, Berkeley Transportation Systems, Jacobs Engineering, Midwestern Software Solutions, Works Consulting.

**SOQ EVALUATION TEAM**

James Sargent, Maricopa County DOT  
Jorie Bresnahan, City of Phoenix  
Mannar Tamirisa, City of Peoria

Ravi Seera, City of Mesa  
Jason Howard, MAG

**CONTACT PERSON:**

Wang Zhang, (602) 254-6300

# **MARICOPA ASSOCIATION OF GOVERNMENTS**

## **INFORMATION SUMMARY... for your review**

**DATE:**

November 8, 2010

**SUBJECT:**

MAG Managed Lanes Network Development Strategy - Phase I

**SUMMARY:**

Arizona House Bill (HB) 2396, passed by the Arizona Legislature and signed by Governor Brewer on July 13, 2009, enables the state, through the Arizona Department of Transportation (ADOT), to consider the use of Public-Private-Partnerships (P3) as a tool for financing transportation infrastructure in Arizona. This new law grants ADOT broad authority to partner with the private sector to build or improve Arizona transportation facilities. Since the program's inception, ADOT has established an Office of P3 Initiatives to establish program guidelines and create a process for implementing the program.

Often when a P3 project is established, the public sector partners with the private sector to develop the transportation project. Typically, funding for the project comes from both sectors. In an exchange for managing the risk of developing the transportation project, the public sector grants a concession agreement to the private sector for a set period to allow recovery of their funding with interest. During this set period, which can range from 30- to 100-years, the private sector is responsible for operation and maintenance of the infrastructure. While the private sector funding recovery can be accomplished through a variety of methods, the most common is the imposition of tolls on the transportation project during the set period. Throughout the set period, and at the conclusion of the concession agreement, the public sector maintains ownership of the transportation project.

In the Phoenix metropolitan region, ADOT has been coordinating with MAG to identify the potential for using P3 as a tool for funding transportation improvements, especially in light of recent shortfalls that have been realized by declining Proposition 400 revenues. Starting in June 2010 and continuing into September 2010, the Transportation Policy Committee received presentations from MAG staff, ADOT staff, and P3 experts, including former USDOT Transportation Secretary Mary Peters, about their potential for the region. The Transportation Policy Committee considered the topic and identified three policy issues related to P3 projects:

- Does the MAG region want to explore the use of P3, and tolls specifically, in the context of the overall transportation system?
- What is the potential pool of projects that this region might consider? Should projects include those from Proposition 400?
- How should the region use potential net revenues from P3 projects?

As these policy issues were identified, it was noted that P3 projects could cover a variety of transportation infrastructure, including operations and maintenance of the existing system, expansion and improvements for transit, and adding new highway capacity. During the course of the discussions

by the Transportation Policy Committee, a presentation was made to consider Managed Lanes that would provide new capacity along the MAG Regional Freeway Network as an introduction to P3 opportunities for the region. Managed Lanes could be implemented as a supplement to corridor and would not require all users to pay a toll to travel along a freeway corridor.

Often referred to as HOT (or High-Occupancy Toll) Lanes, these lanes are either converted HOV lanes, or new lanes constructed along existing freeway corridors. The lanes are signed free for carpoolers and buses, and are also offered to toll-paying single occupant drivers for their use. In most locations the tolls are varied based upon the demand for the managed lanes. If the free general capacity lanes are congested, then the tolls are raised to keep travel within the managed lanes as free-flow as possible to keep the trip time reliable for the carpoolers, buses, and the toll-paying single occupant commuter. The general capacity lanes would remain non-toll and free to all commuters that do not want to pay for an uncongested travel time.

Managed Lanes are in various stages of development in 19 urban areas of the United States. Of these locations, eight urban areas presently have managed lanes open to traffic and in operation, and another three locations are under construction. The most ambitious project that is under construction as a P3 operation is along southwest leg of Interstate 495, the Capital Beltway, between Interstates 95 and 395 and the Potomac River, by the Virginia Department of Transportation and TransUrban Corporation. The key promise of this \$2 billion project is not only to provide 56 new lane-miles of capacity, but to replace more than 50 aging and deficient overcrossing structures of the freeway that would have taken the Virginia Department of Transportation decades to complete through conventional methods.

While it is possible to develop managed lane facilities along individual corridors, it might be difficult to assess the ability of individual corridor to function within the context of the entire MAG Regional Freeway System. Given this opportunity, a multi-phase MAG Managed Lanes Network Development Strategy is proposed to establish the feasibility for introducing this concept to the Phoenix metropolitan area. The request that accompanies this summary transmittal is to conduct the first phase of the Development Strategy by conducting a System-Wide Managed Lanes Feasibility Study. In this phase the following would be conducted:

- Assessment of Existing and Future HOV (High Occupancy Vehicle) Lane use
- Identification of critical gaps in the system
- Assessment of basic soundness of a Managed Lanes Network in the MAG region
- Formulation of a MAG Managed Lanes policy
- Selection of pilot Managed Lane corridors

Pending the acceptance of the findings from this first phase, the MAG Managed Lanes Network Development Strategy could continue into additional phases. A second phase is envisioned to analyze the pilot Managed Lanes corridors identified in this initial effort. A third and final phase would analyze all remaining promising Managed Lanes corridors. In both phases the work programs would encompass identifying demand projections, revenue projections, investment options, and a corridor implementation strategy.

As this System-Wide Managed Lanes Feasibility Study is under development, an outreach program would also be conducted to identify the public's attitudes toward the possible introduction of tolling to the MAG region. This project would be separate from the feasibility study and conducted by a consultant versed in public opinion gathering and analysis. The goal of this outreach effort is to

provide information to the Transportation Policy Committee related to the three policy issues that have been identified for a potential P3 program in the MAG region.

**PUBLIC INPUT:**

The Managed Lanes concept was presented to the Transportation Policy Committee for their comments in September and October 2010. During these meetings, public comment was taken on P3 projects in general.

**PROS & CONS:**

PROS: Public-Private-Partnerships (P3) represent a new direction for Arizona to consider in financing future transportation infrastructure. While numerous applications could be applied to the MAG region, Managed Lanes could provide an introduction to P3 as an option in corridor without requiring all commuters to pay a toll. As this capacity could be implemented on individual corridors, it is important to consider the overall feasibility of a system to ensure the potential success of Managed Lanes in the region.

CONS: At this time, none. This request is to conduct a feasibility study of a Managed Lanes network on the MAG Regional Freeway System. It represents the first of multiple phases of study prior to any implement strategy. At the conclusion of the study, the results will be accepted by MAG and assessed before proceeding to a subsequent phase.

**TECHNICAL & POLICY IMPLICATIONS:**

TECHNICAL: The outcome and subsequent actions taken by the Regional Council based upon the findings of this first phase study could influence development and implementation of future transportation corridors identified in the Regional Transportation Plan. As this effort is to examine the potential for Managed Lanes, other tolling options could be considered as part of a P3 implementation. This study could provide guidance for these options as well in the overall context of delivering the future transportation infrastructure.

POLICY: The outcomes of this study will provide guidance to MAG, ADOT, and other affected jurisdictions and agencies on the development of Managed Lanes as a P3 option in the MAG region. A significant task within this project will be to examine various policies the Regional Council and State Transportation Board may need to consider to ensure the success of a Managed Lanes Network in the MAG region. These policies could include HOV occupancy, design guidance, and target travel speeds to ensure network reliability.

**ACTION NEEDED:**

Approval to amend the FY 2011 Unified Planning Work Program and Annual Budget for up to \$500,000 to provide for the MAG Managed Lanes Network Development Strategy - Phase I project. In addition, approval to amend the FY 2011 Unified Planning Work Program and Annual Budget for up to \$50,000 to provide for a public opinion survey on the potential for tolling in the MAG region.

**PRIOR COMMITTEE ACTIONS:**

This item is on the November 10, 2010 Management Committee agenda to recommend amending the FY 2011 Unified Planning Work Program and Annual Budget for up to \$500,000 to provide for the MAG Managed Lanes Network Development Strategy - Phase I project. In addition, recommend amending the FY 2011 Unified Planning Work Program and Annual Budget for up to \$50,000 to provide for a public opinion survey on the potential for tolling in the MAG region.

The Transportation Policy Committee at its October 20, 2010 meeting passed a motion to conduct the MAG Managed Lanes Network Development Strategy - Phase I project.

## MEMBERS ATTENDING

Mayor Scott Smith, Mesa, Chair  
Councilwoman Peggy Neely, Phoenix,  
Vice Chair  
# Mayor Bob Barrett, Peoria  
Stephen Beard, HDR Engineering, Inc.  
\* Dave Berry, Swift Transportation  
\* Jed Billings, FNF Construction  
Mayor James Cavanaugh, Goodyear  
Councilmember Jack Sellers, Chandler  
Councilmember Shana Ellis, Tempe  
Councilmember Dick Esser, Cave Creek  
\* Mark Killian, The Killian Company/Sunny  
Mesa, Inc.  
# Mayor Jim Lane, Scottsdale

\* Not present

# Participated by telephone conference call

+ Participated by videoconference call

### **CONTACT PERSON:**

Bob Hazlett, MAG Senior Engineer, 602 254-6300.

Phil Matthews, Salt River Pima-Maricopa  
Indian Community  
Mayor Jackie Meck, Buckeye  
\* Vice Mayor Les Presmyk, Gilbert  
Mayor Marie Lopez Rogers, Avondale  
David Scholl  
# Mayor Elaine Scruggs, Glendale  
\* Karrin Kunasek Taylor, DMB Properties  
# Mayor Lyn Truitt, Surprise  
\* Supervisor Max W. Wilson, Maricopa  
County  
\* Victor Flores, State Transportation Board  
# F. Rockne Arnett, Citizens Transportation  
Oversight Committee

**MARICOPA ASSOCIATION OF GOVERNMENTS**  
**INFORMATION SUMMARY... for your review**

**DATE:**

November 8, 2010

**SUBJECT:**

MAG Pedestrian and Bicycle Facilities Design Assistance Program On-Call Consultant List

**SUMMARY:**

The FY 2011 MAG Unified Work Planning Program and Annual Budget, approved by the Regional Council in May 2010, includes \$300,000 for the Pedestrian and Bicycle Facilities Design Assistance Program. The MAG Pedestrian and Bicycle Facilities Design Assistance On-Call Consultant List provides member agencies with pre-approved consultant list to provide assistance for their design project. A request for consultants to submit Statements of Qualifications was published on July 22, 2010. Eighteen submittals were received on August 31, 2010. A multi-agency evaluation team reviewed the applications and recommended to MAG that AECOM Technical Services, Inc.; Coffman Studio, PLLC; Drake & Associates; e group, Inc; EPG, Inc.; Gannett Fleming, Inc.; J2 Engineering & Environmental Design, LLC; Kimley-Horn & Associates, Inc.; Logan Halperin Landscape Architecture LLC; Loris & Associates, Inc.; Olsson Associates; Otak, Inc.; PBSJ; Sherman Group, Inc.; Stanley Consultants, Inc.; Stantec Consulting Services, Inc.; The Moore/Swick Partnership; Y.S. Mantri & Associates, LLC. be selected for the MAG Design Assistance On-Call Consultant List

**PUBLIC INPUT:**

None.

**PROS & CONS:**

**PROS:** The MAG Pedestrian and Bicycle Facilities Design Assistance Program On-Call Consultant list provides member agencies with a pre-approved consultant list to provide assistance for their design project. This program assists MAG member agencies by offering professional design assistance to develop bicycle and pedestrian facilities that help reduce congestion and improve air quality.

**CONS:** According to federal law, any project which is not constructed after being designed with federal transportation funds could be required to return the funds used for design to the Federal Highway Administration.

**TECHNICAL & POLICY IMPLICATIONS:**

**TECHNICAL:** The Design Assistance Program encourages implementation of the adopted MAG Pedestrian Policies and Design Guidelines, and nationally accepted bicycle design practices. The program provides demonstration projects for "best practices."

**POLICY:** This program encourages the development of facilities to encourage walking and bicycling.

**ACTION NEEDED:**

Approval of the selection of the following consultants for the MAG Pedestrian and Bicycle Facilities Design Assistance Program On-Call Consultant List : AECOM Technical Services, Inc.; Coffman Studio, PLLC; Drake & Associates; e group, Inc; EPG, Inc.; Gannett Fleming, Inc.; J2 Engineering & Environmental Design, LLC; Kimley-Horn & Associates, Inc.; Logan Halperin Landscape Architecture LLC; Loris & Associates, Inc.; Olsson Associates; Otak, Inc.; PBSJ; Sherman Group, Inc.; Stanley Consultants, Inc.;

Stantec Consulting Services, Inc.; The Moore/Swick Partnership; Y.S. Mantri & Associates, LLC. be selected for the MAG Design Assistance On-Call Consultant List

**PRIOR COMMITTEE ACTIONS:**

This item is on the November 10, 2010 Management Committee agenda to recommend approval of the selection of the following consultants for the MAG Pedestrian and Bicycle Facilities Design Assistance Program On-Call Consultant List: AECOM Technical Services, Inc.; Coffman Studio, LLC; Drake & Associates; e group, Inc.; EPG, Inc.; Gannett Fleming, Inc.; J2 Engineering & Environmental Design, LLC; Kimley-Horn & Associates, Inc.; Logan Halperin Landscape Architecture LLC; Loris & Associates, Inc.; Olsson Associates; Otak, Inc.; PBSJ; Sherman Group, Inc.; Stanley Consultants, Inc.; Stantec Consulting Services, Inc.; The Moore/Swick Partnership; Y.S. Mantri & Associates, LLC.

On October 19, 2010, the MAG Bicycle and Pedestrian Committee recommended that the following consultants be approved for the MAG Design Assistance On-Call Consultant List: AECOM Technical Services, Inc.; Coffman Studio, PLLC; Drake & Associates; e group, Inc; EPG, Inc.; Gannett Fleming, Inc.; J2 Engineering & Environmental Design, LLC; Kimley-Horn & Associates, Inc.; Logan Halperin Landscape Architecture LLC; Loris & Associates, Inc.; Olsson Associates; Otak, Inc.; PBSJ; Sherman Group, Inc.; Stanley Consultants, Inc.; Stantec Consulting Services, Inc.; The Moore/Swick Partnership; Y.S. Mantri & Associates, LLC.

**MEMBERS ATTENDING**

Brandon Forrey, Peoria, Chair of Bicycle and Pedestrian Committee  
Reed Kempton, Scottsdale, Vice-Chair of Bicycle and Pedestrian Committee  
Michael Sanders, ADOT  
\* Tiffany Halperin, ASLA, Arizona Chapter  
# Margaret Boone-Pixley, Avondale  
\* Robert Wisener, Buckeye  
\* D.J. Stapley, Carefree  
# Bob Beane, Coalition of Arizona Bicyclists  
Ann Marie Riley for Jason Crampton, Chandler  
Doug Strong, El Mirage

Ken Maruyama for Tami Ryall, Gilbert  
Steve Hancock, Glendale  
\* Joe Schmitz, Goodyear  
Paul Ward for Michael Cartsonis, Litchfield Park  
Denise Lacey, Maricopa County  
Jim Hash, Mesa  
Katherine Coles, Phoenix  
Lisa Padilla, Queen Creek  
Peggy Rubach, RPTA  
Hobart Wingard, Surprise  
Eric Iwersen, Tempe

\* Members neither present nor represented by proxy.  
# Attended via audio-conference

On September 22, 2010, the multi-agency evaluation team reviewed the applications and recommended to MAG that AECOM Technical Services, Inc.; Coffman Studio, PLLC; Drake & Associates; e group, Inc; EPG, Inc.; Gannett Fleming, Inc.; J2 Engineering & Environmental Design, LLC; Kimley-Horn & Associates, Inc.; Logan Halperin Landscape Architecture LLC; Loris & Associates, Inc.; Olsson Associates; Otak, Inc.; PBSJ; Sherman Group, Inc.; Stanley Consultants, Inc.; Stantec Consulting Services, Inc.; The Moore/Swick Partnership; Y.S. Mantri & Associates, LLC.

**MULTI-AGENCY EVALUATION TEAM**

D.J. Stapley, Town of Carefree  
Jim Hash, City of Mesa  
Katherine Coles, City of Phoenix  
Brandon Forrey, City of Peoria  
Lisa Padilla, Town of Queen Creek

**CONTACT PERSON:**

Maureen DeCindis, MAG, (602) 254-6300

# **MARICOPA ASSOCIATION OF GOVERNMENTS**

## **INFORMATION SUMMARY... for your review**

**DATE:**

November 8, 2010

**SUBJECT:**

Professional Services Selection for the MAG Protocol Evaluation Project

**SUMMARY:**

The FY 2011 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2010, includes \$194,568 to conduct the MAG Protocol Evaluation Project that will assess the protocols used to arrest and prosecute misdemeanor domestic violence cases. The budget for this project includes \$21,500 for professional services to evaluate current protocols, analyze existing data collection elements, evaluate promising practices, and conduct an overall project evaluation.

A Request for Proposals was advertised on August 19, 2010, and six proposals were received from the following organizations:

- Arizona State University Center for Violence Prevention and Community Safety
- Chicanos por la Causa
- FLT Consulting, Inc.
- HBS Consulting Services
- MGT of America, Inc.
- Shepherd Consulting for Non-Profits

A multi-agency proposal evaluation team reviewed the proposal documents and held three interviews. On October 7, 2010, the proposal evaluation team recommended the selection of MGT of America, Inc., to complete the evaluation professional services for an amount not to exceed \$21,500.

**PUBLIC INPUT:**

No public input has been received.

**PROS & CONS:**

PROS: The project was designed to coordinate a multi-disciplinary effort for assessing current protocols and practices used by law enforcement and prosecutors when responding to domestic violence offenders at the misdemeanor level. The project includes evaluating current protocols, building a framework of promising practices, and developing public awareness tools. The result will be enhanced municipal protocols, streamlined data collection elements, and increased efficiency in prosecuting misdemeanor domestic violence cases.

CONS: None.

**TECHNICAL & POLICY IMPLICATIONS:**

TECHNICAL: The procurement of professional services will enable MAG to obtain technical expertise in the evaluation of protocols used to arrest and prosecute misdemeanor domestic violence cases.

POLICY: None at this time.

**ACTION NEEDED:**

Approval of the selection of MGT of America, Inc. to conduct the evaluation professional services for the MAG Protocol Evaluation project for an amount not to exceed \$21,500.

**PRIOR COMMITTEE ACTIONS:**

This item is on the November 10, 2010 Management Committee agenda for recommend the selection of MGT of America, Inc. to conduct the evaluation professional services for the MAG Protocol Evaluation project for an amount not to exceed \$21,500.

On October 7, 2010, the proposal evaluation team recommended the selection of MGT of America, Inc., to conduct the evaluation professional services for the MAG Protocol Evaluation project for an amount not to exceed \$21,500.

PROPOSAL EVALUATION TEAM

Irene Jacobs, Avon Program for Women and Justice at O'Connor House  
Laura Guild, Department of Economic Security  
Commander Ralph McLaughlin, City of Goodyear Police Department  
John Pombier, City of Mesa Prosecutor's Office  
Barbara Marshall, Maricopa County Attorney's Office.

**CONTACT PERSON:**

Amy St. Peter, MAG Human Services Manager, (602) 254-6300.

October 20, 2010

Mr. Gregory Nudd (Air-2)  
U. S. Environmental Protection Agency Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

RE: Comments on Proposed Partial Approval and Disapproval of MAG 2007 Five Percent Plan for PM-10<sup>1</sup>  
Docket ID No. EPA-R09-OAR-2010-0715

Dear Mr. Nudd:

As the leaders of large and small communities across the Maricopa Association of Governments (MAG) region representing nearly four million residents, we have a significant interest in the proposed partial approval and partial disapproval of the MAG Five Percent Plan for PM-10. This action could prevent some transportation projects in the Maricopa region from moving forward and ultimately result in progressively dire economic sanctions for a region already devastated by the economic recession.

Foreclosure rates in the Phoenix metro area are at an all-time high, with nearly 60,000 distressed properties either already foreclosed or pending foreclosure. Almost 100,000 construction jobs have been lost in the region over the last three years. We can ill afford any action by the EPA that will cause further economic hardship to our residents. In fact, we have already seen a chilling effect on economic development as a result of media reports surrounding the proposed disapproval. Our region cannot afford a conformity freeze, or any of the additional sanctions that could be imposed if the EPA disapproves the Plan.

A conformity freeze would be especially unfair considering that our communities have implemented aggressive measures to address dust pollution and the fact that high wind exceptional events—which we believe are the cause of all but one of the exceedances at the monitors in 2008 and 2009—are outside of our control.

MAG, Maricopa County, and the Arizona Department of Environmental Quality have an impressive track record for improving the quality of our air. We were one of the first areas in the country to

<sup>1</sup> 75 Fed. Reg. 54,806 (September 9, 2010).

implement an alternative fuels program to help resolve the carbon monoxide issue. We have one of the most stringent vehicle emissions inspection maintenance programs in the country. We are currently a cosponsor of a pilot project to implement electric vehicle charging stations in the region. We have met the federal air quality standard for carbon monoxide, and the nonattainment area is now a maintenance area. We are also a maintenance area for one-hour ozone; there have been no violations of that standard since 1996. There have been no violations of the .08 parts per million eight-hour ozone standard since 2004. Our region also meets the fine particulate standard (PM-2.5).

In the area of PM-10, the MAG Revised 1999 Serious Area Plan contained 77 aggressive measures to reduce dust. This Plan was one of the first in the nation and was heralded by the EPA as one of the most comprehensive plans in the country. The MAG Five Percent Plan for PM-10 contains another 53 aggressive measures that are in addition to the Serious Area Plan measures. In fact, every city and town within the nonattainment area, and Maricopa County, have implemented dust control measures to address dust pollution. Our tracking report indicates the cities and towns have gone above and beyond their commitments.

The MAG Regional Council has allocated a total of \$23.2 million in Congestion Mitigation and Air Quality (CMAQ) funds over the last 10 years to purchase clean, dust-reducing street sweepers. We have allocated \$28.4 million for paving unpaved roads from fiscal 2007 to 2013.

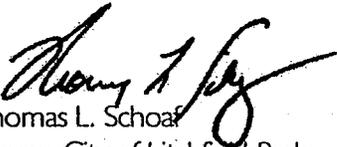
The bottom line is our region cares about the air our residents breathe. That is why we have taken aggressive action to protect public health. Our plan is effective and it is working. If EPA disapproves the MAG Five Percent Plan for PM-10, this action could result in unnecessary controls on industry, further hurting the economy and our residents. We think the stakes are high for our citizens and, although we appreciate the recent eight-day extension of the comment period, we believe that not enough time has been allowed for EPA fully to consider and respond to our concerns. Therefore, we continue respectfully to request that the EPA delay any decision regarding final disapproval action until the Agency has an adequate opportunity to review all of the scientific data MAG and ADEQ have provided regarding high-wind exceptional events, as well as the information that will be submitted on other elements of the proposed disapproval.

We continue to have significant concerns over the implementation and interpretation of the Exceptional Events Rule. The EPA has admitted that the exceptional events rule is flawed, and many states are concerned about inconsistencies in how it is administered. The rule is being questioned not only by Arizona, but also by 14 other western states that must frequently contend with dust storms, wildfires and forest fires. If this issue is not resolved, our region could find itself in the same situation again based on emissions that cannot be controlled—there is no plan that can stop or diminish high winds.

Despite our objections to the proposed disapproval, MAG is committed to making technical fixes to the plan that are necessary to ensure clean air for our citizens. We will continue to work with EPA to address the Agency's concerns and take action where necessary. As we have in the past, we will work in good faith and work with our regulatory partners, our member agencies, and the public to improve an air quality plan that will bring us to attainment. Our hope is that this will be a collaborative process and that we will be able to move forward in a way that will not harm our economy and the residents of Arizona.

Sincerely,

The Regional Council of the Maricopa Association of Governments



Thomas L. Schoat  
Mayor, City of Litchfield Park  
Chair, MAG Regional Council



Hugh Hallman  
Mayor, City of Tempe  
Vice Chair, MAG Regional Council



Marie Lopez Rogers  
Mayor, City of Avondale  
Treasurer, MAG Regional Council



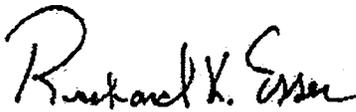
Robin Barker  
Councilmember, City of Apache Junction



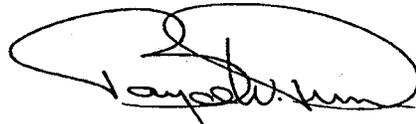
Jackie Meck  
Mayor, Town of Buckeye



David Schwan  
Mayor, Town of Carefree



Richard K. Esser  
Councilmember, Town of Cave Creek



Boyd W. Dunn  
Mayor, City of Chandler



Michele Kern  
Mayor, City of El Mirage



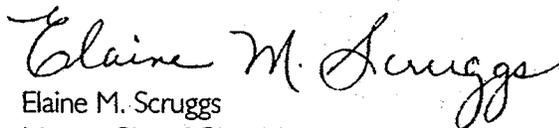
Jay Schlum  
Mayor, Town of Fountain Hills



Ron Henry  
Mayor, Town of Gila Bend



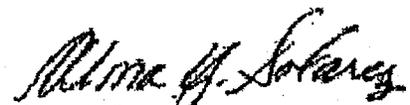
John Lewis  
Mayor, Town of Gilbert



Elaine M. Scruggs  
Mayor, City of Glendale



James M. Cavanaugh  
Mayor, City of Goodyear



Yolanda Solarez  
Mayor, Town of Guadalupe



Mary Rose Wilcox  
Supervisor, District 5, Maricopa County



Scott Smith  
Mayor, City of Mesa



Scott LeMarr  
Mayor, Town of Paradise Valley



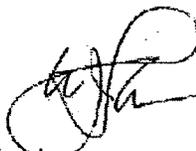
Bob Barrett  
Mayor, City of Peoria



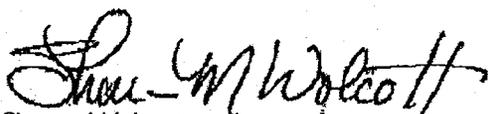
Peggy Neely  
Councilmember, City of Phoenix



Gail Barney  
Mayor, Town of Queen Creek



Jim Lane  
Mayor, City of Scottsdale



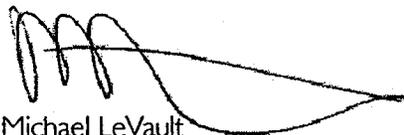
Sharon Wolcott  
Councilmember, City of Surprise



Adolfo Gamez  
Mayor, City of Tolleson



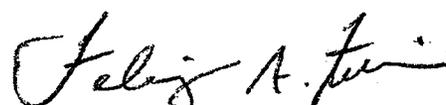
Kelly Blunt  
Mayor, Town of Wickenburg



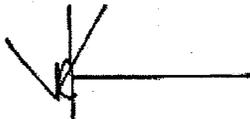
Michael LeVault  
Mayor, Town of Youngtown



F. Rockne Arnett  
Chair, Citizens Transportation Oversight  
Committee



Felipe Zubia  
Member, State Transportation Board



Victor Flores  
Member, State Transportation Board

cc: Jared Blumenfeld, EPA Region IX Administrator  
Deborah Jordan, EPA Region IX  
Colleen McKaughan, EPA Region IX  
Joy E. Herr-Cardillo, Arizona Center for Law in the Public Interest

# GILA RIVER INDIAN COMMUNITY

*Executive Office of the Governor & Lieutenant Governor*

*William R. Rhodes*  
Governor



*Joseph Manuel*  
Lieutenant Governor

October 18, 2010

Mr. Gregory Nudd (Air-2)  
U. S. Environmental Protection Agency Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

RE: Comments on Proposed Partial Approval and Disapproval of MAG 2007 Five Percent Plan for PM<sub>10</sub>  
Docket ID No. EPA/R09-OAR-2010-0715

Dear Mr. Nudd:

Please accept this letter supporting Maricopa Association of Governments (MAG) on the U. S. Environmental Protection Agencies (EPA) proposed partial approval and partial disapproval of the MAG Five Percent Plan for PM-10.

Maricopa Association of Governments, Maricopa County, and the Arizona Department of Environmental Quality have an impressive track record for improving the quality of air throughout the region. In the area of PM-10, the MAG Revised 1999 Serious Area Plan contained 77 aggressive measures to reduce dust. This Plan was one of the first in the nation and was heralded by the EPA as one of the most comprehensive plans in the country. The MAG Five Percent Plan for PM-10 contains another 53 aggressive measures that are in addition to the Serious Area Plan measures. In fact, every city and town within the nonattainment area, and Maricopa County, have implemented dust control measures to address dust pollution. In addition, the Gila River Indian Community has also developed the first comprehensive Air Quality Management Plan (AQMP) in Indian Country which includes numerous regulatory measures to control dust pollution.

The Gila River Indian Community has expressed many of the same concerns as MAG, Maricopa County and Arizona Department of Environmental Quality over the implementation and interpretation of the federal Exceptional Events Rule. The EPA has admitted that the exceptional events rule is flawed, and many states are concerned about inconsistencies in how it is administered. Since PM-10 designations for GRIC, MAG, Maricopa County and much of the State are directly dependant on EPA's concurrence/non-concurrence with each jurisdiction's Exceptional Events Evaluation,

525 West Gu u Ki • P.O. Box 97 • Sacaton, Arizona 85147

Telephone: 520-562-9841 • Fax: 520-562-9849 • Email: [executivemail@gric.nsn.us](mailto:executivemail@gric.nsn.us)

EPA should first correct the flawed Exceptional Events Rule prior to making any decisions on concurrence /non-concurrence under the Rule. The rule is being questioned not only by Arizona, but also by 14 other western states and Tribes that must contend with dust storms, wildfires and forest fires. If this issue is not resolved, our region could find it in the same situation in future years based on emissions that cannot be controlled—there is no plan that can stop or diminish high winds.

As a member of the Maricopa Association of Governments, we wish to extend our support in their efforts to attain the PM-10 National Ambient Air Quality Standard (NAAQS) and continued protection of public health.

We also wish to express our appreciation to the U. S. EPA for their efforts to provide assistance to the Gila River Indian Community to address exceptional events as they pertain to Tribal Governments.

Please feel free to contact Margaret Cook at Department of Environmental Quality for any additional information at (520) 562-2234.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. R. Rhodes', with a date '10/11/10' written below it.

William R. Rhodes, Governor  
Gila River Indian Community

Cc: Nathan B. Pryor  
Intergovernmental Policy Coordinator



302 North 1st Avenue, Suite 300 ▲ Phoenix, Arizona 85003  
Phone (602) 254-6300 ▲ FAX (602) 254-6490  
E-mail: mag@azmag.gov ▲ Web site: www.azmag.gov

October 20, 2010

VIA ELECTRONIC AND OVERNIGHT MAIL

Mr. Gregory Nudd (Air-2)  
U. S. Environmental Protection Agency Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

RE: Docket ID No. EPA-R09-OAR-2010-0715  
Maricopa Association of Governments' Comments on the "Approval and Promulgation of Implementation Plans—Maricopa County (Phoenix) PM-10 for Attainment of the 24-Hour PM-10 Standard; Clean Air Act Section 189(d)"

Dear Mr. Nudd:

Please find attached the comments from the Maricopa Association of Governments ("MAG") on the "Approval and Promulgation of Implementation Plans—Maricopa County (Phoenix) PM-10 for Attainment of the 24-Hour PM-10 Standard; Clean Air Act Section 189(d)" to be filed this date in Docket No. EPA-R09-OAR-2010-0715. MAG represents the 25 cities and towns in Maricopa County, Arizona, and the contiguous urbanized area, three Native American Indian Communities, and Maricopa County. MAG serves as the designated Regional Air Quality Planning Agency for the Maricopa area.

On September 9, 2010, the Environmental Protection Agency ("EPA") proposed to approve in part and disapprove in part State Implementation Plan ("SIP") revisions submitted by the State of Arizona with regard to the Maricopa County nonattainment area for particulate matter of ten microns or less ("PM-10").<sup>1</sup> The "MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area" (the "Plan") that is the subject of the Proposed Action was developed by MAG in concert with the Arizona Department of Environmental Quality and Maricopa County.

In the Proposed Action, EPA, among other things, proposed: (1) to disapprove the State's attainment demonstration, five percent emission reduction plan, contingency measures, reasonable further progress and milestone demonstration, and Motor Vehicle Emissions Budget ("MVEB") based on a rejection of the State's Exceptional Events Demonstration; (2) to disapprove the 2005 Emissions Inventory and the 2010 MVEB in the Plan; (3) to allow limited approval and limited disapproval of State regulations for the control of PM-10 from agricultural sources; and (4) to approve various provisions of State statutes related to the control of PM-10 emissions in the Maricopa area.

<sup>1</sup> 75 Fed. Reg. 54,806 (September 9, 2010).

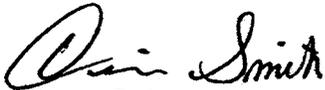
A Voluntary Association of Local Governments in Maricopa County

City of Apache Junction ▲ City of Avondale ▲ Town of Buckeye ▲ Town of Carefree ▲ Town of Cave Creek ▲ City of Chandler ▲ City of El Mirage ▲ Fort McDowell Yavapai Nation ▲ Town of Fountain Hills ▲ Town of Gila Bend  
Gila River Indian Community ▲ Town of Gilbert ▲ City of Glendale ▲ City of Goodyear ▲ Town of Guadalupe ▲ City of Litchfield Park ▲ Maricopa County ▲ City of Mesa ▲ Town of Paradise Valley ▲ City of Peoria ▲ City of Phoenix  
Town of Queen Creek ▲ Salt River Pima-Maricopa Indian Community ▲ City of Scottsdale ▲ City of Surprise ▲ City of Tempe ▲ City of Tolleson ▲ Town of Wickenburg ▲ Town of Youngtown ▲ Arizona Department of Transportation

Although MAG agrees with EPA's approval of various provisions in State statute relating to control of PM-10 emissions in the Maricopa area, MAG disagrees with EPA's proposed disapproval of the other provisions of the Plan as explained in detail in our comments. MAG is aware that both the Arizona Department of Environmental Quality and the Maricopa County Air Quality Department have submitted comments. We have worked diligently with our regulatory partners, our member agencies, and the public to develop a Plan that will address PM-10 emissions in the Maricopa area and bring the Maricopa area to attainment. MAG's Revised 1999 Serious Area Plan was one of the first in the nation and was heralded by EPA as one of the most comprehensive plans in the country. The PM-10 Plan submitted by MAG in 2007 that is the subject of EPA's current proposed action contained additional aggressive dust control measures. In fact, every city and town within the nonattainment area, and Maricopa County, have implemented dust control measures and have gone above and beyond their commitments to control PM-10 emissions.

We trust that EPA will carefully consider our comments, as well as the comments of industry groups and our regulatory partners, in making its decision on the proposed action. We appreciate the opportunity to comment on EPA's proposed action. Thank you for your attention.

Sincerely,

A handwritten signature in black ink that reads "Dennis Smith". The signature is written in a cursive, flowing style.

Dennis Smith

Executive Director

Maricopa Association of Governments

**MAG Comments on Docket ID Number EPA-R09-OAR-2010-0715,  
“Approval and Promulgation of Implementation Plans–Maricopa County (Phoenix)  
PM–10 Nonattainment Area; Serious Area Plan for Attainment of the 24-Hour PM–10  
Standard; Clean Air Act Section 189(d)”**

**EPA Comments, 75 FR 54808-54809:**

*“The 2005 Periodic Inventory is not sufficiently accurate for the purposes of the 189(d) plan. As discussed below, this inventory and the subsequent year inventories that MAG derived from it overestimate the baseline emissions from construction and other sources...EPA believes that analysis of the full database of 11,000 Rule 310 inspections provides a more accurate measure of rule effectiveness than using a sample of 63 inspections. This is because the 63 inspections may not be representative of the entire population of sources covered by the rule. The larger data set is much more likely to be free of sample biases. Therefore, based upon this analysis, EPA has determined that the initial estimate of rule effectiveness for Rule 310 was not accurate. There is a similar inaccuracy in the rule effectiveness calculations for MCAQD Rule 310.01 for unpaved parking lots, unpaved roads and similar sources of fugitive dust emissions.”*

**MAG Response:**

There are several problems with EPA’s above statement:

**(1) The methodology used by Maricopa County Air Quality Department (MCAQD) does not conflict with any existing or previous Rule Effectiveness (RE) guidance issued by the EPA. In fact, the methodology used by MCAQD in the 2005 Periodic Inventory applied the principles of EPA’s current and previous guidance documents in developing the RE studies. It is important to note upfront that EPA does not state that it finds the RE methodology used in the 2005 Periodic Inventory conflicts with, or runs contrary to EPA guidance on the development of RE studies. EPA simply argues it prefers the method developed by MCAQD in 2010 over the method used in the 2005 Periodic Inventory because it may help to eliminate sample bias. EPA even acknowledges that the 2010 analysis conducted by MCAQD was not a strict formulation in response to current EPA guidance but rather it “was a hybrid of a simple average of the results in the inspection database and the 2005 Emissions Inventory Guidance.”<sup>1</sup> This is because EPA’s current guidance on RE studies is focused on broad principles and methods and does not require prescriptive methodologies. As an illustration of this point, EPA states within the current RE guidance that the older guidance upon which MCAQD relied on in crafting the RE study in the 2005 Periodic Inventory can be helpful in calculating emission reductions.<sup>2</sup> EPA also recognizes within the current RE guidance that the development of RE studies is a difficult task due to availability of data and resources by the agency implementing the study. EPA states,**

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<sup>1</sup> 75 FR 54809

<sup>2</sup> Page B-5 of current guidance (“Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,” EPA-454/R-05-001, November 2005) states, “How can I calculate SIP credit for emission reductions achieved via improvements to rule effectiveness? Such credit will need to be determined on a case by case basis. EPA’s older guidance may be used as a point of reference, but pursuant to EPA guidance, “Ozone Nonattainment Planning: Decentralization of Rule Effectiveness Policy; April 27, 1995”, other approaches may be used.”

*"It is unlikely that all state and local agencies will be able to collect sufficient information from all of their stationary sources from which refined RE adjustments can be made. Additionally, no suitable matching studies may exist from which a rule effectiveness value can be obtained. In such situations, the selection of an RE value becomes subjective."<sup>3</sup>*

In developing the RE study in the 2005 Periodic Inventory MCAQD crafted a study that sought to minimize the inherent subjectivity quoted by EPA above. In many ways, the RE study developed for the 2005 Periodic Inventory is superior to simply looking at a database of inspection records by providing more detailed information than that basic record of inspections can provide. This study employed the use of two inspection personnel at each of the 63 visits, an inspector and a supervising inspector to ensure that the observations regarding violations of the rule by MCAQD staff was quality assured and accurate. This level of quality assurance does not exist when simply looking at a database of inspection records. This also assures that a full level II compliance inspection was done at each study site; this is not the case with the inspection database, as many of the inspections in the database were simply a response to a complaint (partial inspection of site) or even simply a level I inspection that equates to a drive-by visual inspection of the site. Given this reality, it is expected that compliance levels would be higher in the overall database as compared to the intensive inspections done at the 63 sampled sites. Additionally, at the time that the RE study was developed (and even currently), there has been no other agency that has produced an RE study for EPA that focuses on PM-10 from fugitive dust sources beyond a generic assignment of 80% as recommended by the earliest of EPA guidance. These facts show that the RE study developed by MCAQD for the 2005 Periodic Inventory met all available EPA guidance and was the best available estimate of the effectiveness of the rules it evaluated.

**(2) When EPA publicly commented on the 2005 Periodic Inventory, it made no mention of the RE study but only commented briefly on changing the assumptions about the activity level of construction sources (Rule 310).<sup>4</sup>** However, several prominent industry groups including the Arizona Chapter of Associated General Contractors and the Home Builders Association of Central Arizona commented extensively on the RE study. Several of the comments provided by the above mentioned parties even cover in particular detail the discussion of random sample inspections versus the use of available inspection data. MCAQD provided extensive response to these comments, detailing the decisions that went into choosing sample inspections over inspection data in developing the RE study. If EPA had concerns with the RE study during its development, it did not let MCAQD know of them, nor did EPA take the opportunity to agree with the comments in support of using inspection data over sample inspections.

**(3) EPA is relying on hindsight to evaluate the inventory and is ignoring its own legal and procedural history that promotes the use of the best available inventories at the time of plan development. EPA has historically defended such inventories in states' plan submittals, protecting the states from endless delays and costs occurred from adjusting inventories each time new data and methodology appear. It has been over 3 years since the 2005 Periodic Inventory was made final in May 2007. EPA's**

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<sup>3</sup> Page B-2 of "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations," EPA-454/R-05-001, November 2005

<sup>4</sup> In "Appendix 1, Responsiveness Summary to Comments Received on Public Review Draft 2005 Periodic Emissions Inventory for PM<sub>10</sub> for the Maricopa County, Arizona, Nonattainment Area" of the 2005 Periodic Emissions Inventory for PM<sub>10</sub> for the Maricopa County, Arizona, Nonattainment Area. MCAQD, May 2007

concerns with the RE studies is a recent development and appeared only after MCAQD performed the analysis of a new methodology in early 2010. If MCAQD had not performed the 2010 analysis, there is no indication from EPA that it would have found the methodology in the 2005 Periodic Inventory inaccurate. In actuality, it is commonplace for EPA to approve plans that do not even contain rule effectiveness studies. EPA states in the May 2005 approval of the District of Columbia's VOC rule that,

*"As numerous of EPA's SIP approval Final actions published in the Federal Register amply demonstrate, EPA has approved hundreds of SIP revisions submitted by states consisting of state rules to control VOCs from stationary sources and source categories where such approvals did not require data and modeling to assess the individual rules' impacts on the NAAQS."*<sup>5</sup>

In another case, EPA approved an attainment plan in part on the state's mere promise to conduct a rule effectiveness study after the fact,

*"EPA is proposing to approve the emission reductions that have been projected for the improved leak detection and repair rules. Our approval is based on the improvements to the fugitive rule and Texas' commitment to perform a rule effectiveness study and use improved emission inventory techniques to estimate future emissions to confirm the effectiveness of the program."*<sup>6</sup>

In addition, when states have provided rule effectiveness studies, EPA has defended those states' emission reduction credits. For example, Pennsylvania relied on a rule effectiveness study to demonstrate compliance increasing from 80% to 90%. In response to a commenter's opposition to that study, EPA stated,

*"The EPA disagrees that it is inappropriate to allow credit for improved rule effectiveness (RE) in the attainment demonstration. The Commonwealth has supplied to EPA a protocol that has been implemented at the sources for which increased RE credits have been claimed...No one has brought to EPA's attention credible evidence that Pennsylvania is not implementing RE at the sources for which RE improvement credits are claimed. It would not be appropriate for EPA to discount credit from a state initiative based upon unsubstantiated speculation that such a state will not enforce its own SIP."*<sup>7</sup>

In hindsight, it is understandable the EPA would wish to minimize the role of construction emissions given the recent deep economic recession experienced by the industry. However, during the time the 2005 Periodic Inventory was developed, construction activity was robust and there was no obvious indication that the industry would experience the coming recession. It would be unreservedly unfair for EPA to select an RE methodology based upon present economic realities that were utterly unpredictable at the time of the 2005 Inventory development.

EPA's post-hoc rationalization in the Proposed Rule disapproving the valid inventory methodology in the 2005 Periodic Inventory is contrary to the EPA's long-accepted practice of allowing states to rely on the best available data and methods used at the time of plan submission. EPA routinely rejects comments challenging emissions inventories developed by states when those comments focus on changes in data or methodology. The agency explicitly recognizes that emission inventories may be based on the best

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<sup>5</sup> 70 FR 24963

<sup>6</sup> 70 FR 58131

<sup>7</sup> 66 FR 54160

available data at the time the plan is submitted, rather than requiring extensive changes after the fact. It is commonly understood that emissions inventories are a snapshot in time. They evolve over time as data and new methodologies appear. Indeed, EPA routinely updates or creates entirely new emission models for use in developing emission inventories. As such, EPA has consistently defended the use of the best available inventory at the time of plan development over requiring state and local agencies to update SIP inventories every time a new model appears. In EPA's May 2004 approval of the San Joaquin Valley's Serious Area Plan for PM-10, EPA states the following in response to a comment that the emissions inventory used by San Joaquin Valley contained numerous errors,

*"...EPA recognizes that inventories are not static, but are constantly being updated and renewed as new information, techniques and studies are made available.<sup>16</sup> The State and District used the best available inventories at the time of plan development...EPA generally relied on the State and local agencies to develop, maintain and update their inventories...<sup>16</sup>Once a plan has been adopted, EPA does not generally require plan elements such as emissions inventories to be revisited and updated in response to new information. The U.S. Court of Appeals for the District of Columbia Circuit recently addressed a similar issue and affirmed EPA's position. Sierra Club v. EPA, 356 F.3d 296 (D.C. Cir. 2004)."*<sup>8</sup>

It should be inferred from this quote the EPA feels strongly enough about using the "best available inventories at the time of plan development" to litigate for that position.<sup>9</sup> We agree that this is the position EPA should hold, and it is the position that EPA is ignoring by using hindsight to judge the 2005 Periodic Inventory. Again, it must be stressed that a periodic emissions inventory is a snapshot in time, and should not be disapproved because it did not anticipate the advancements in data, methodologies, or economic realities that would appear in the future. EPA's disapproval of the five percent plan based upon its preference of a new RE methodology over a logical and soundly defended previous one is the definition of a capricious and arbitrary act, especially when it was used to propose disapproval of other parts of the plan.

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<sup>8</sup> 69 FR 30013

<sup>9</sup> The following prevailing opinion from Judge Garland in the court case cited by EPA (Sierra Club v. EPA, 356 F.3d 296 (D.C. Cir. 2004)) highlights EPA's defense of the use of the best available inventory at the time of plan development, "**44 Sierra Club argues that the States should nonetheless have revised the D.C. area ROP plans to incorporate the advances of MOBILE6, for two reasons. First, MOBILE6 was available, albeit for only one month, before the States submitted their plans. Second, EPA did not approve the plans until April 17, 2003, over a year after MOBILE6's release. 45 EPA responds that, although it requires that states use the latest model available at the time a plan is developed, see 42 U.S.C. § 7502(c)(3); 40 C.F.R. § 51.112(a)(1), its policy was not to "require states that have already submitted SIPs or will submit SIPs shortly after MOBILE6's release to revise these SIPs simply because a new motor vehicle emissions model is now available." Conditional Approval, 68 Fed.Reg. at 19,121; see also Memorandum from EPA Office 356 F3d 296 Sierra Club v. Environmental Protection Agency of Air Quality Planning & Standards 2 (Jan. 18, 2002) (J.A. at 530) (same). As the agency explains, "emissions factors, as well as inventory calculation methodologies, are continually being improved." 68 Fed.Reg. at 19,120. Indeed, as its name suggests, MOBILE5 is the fifth generation of this particular model; MOBILE6 is the sixth. To require states to revise completed plans every time a new model is announced would lead to significant costs and potentially endless delays in the approval processes. EPA's decision to reject that course, and to accept the use of MOBILE5 in this case, was neither arbitrary nor capricious.**" (emphasis added).

As a result, Arizona's expectation that its valid, thorough emissions inventory would be acceptable to EPA is realistic and comports with the way that EPA has treated other similarly situated states. Because of the state's primary role in developing and implementing plans<sup>10</sup> to achieve the air quality standards, and EPA's lengthy history of approving data that is exactly like or even less than what Arizona submitted, EPA erroneously rejected the emissions inventory and rule effectiveness study in this case.

**EPA Comment, 75 FR 54809:**

*"There is a similar inaccuracy in the rule effectiveness calculations for MCAQD Rule 310.01...an analysis conducted by MCAQD of the entire database of over 4,500 relevant inspections during the time period of the sample inspections yielded an estimated rule effectiveness of 90 percent. See Popen email."*

**MAG Response:**

EPA incorrectly quotes a value of 90% for a back-casting of rule effectiveness for Rule 310.01 from the Popen email. An examination of the Popen email shows that rule effectiveness for Rule 310.01 was back-casted at 77.5 percent, not 90 percent as quoted by EPA. The 90 percent quoted by EPA refers to the compliance rate, not the final rule effectiveness rate.

**EPA Comment, 75 FR 54810:**

*"The inaccuracies in the Baseline emission inventory were carried through into the future year emission inventories and the calculations of emission reductions for those demonstrations."*

**MAG Response:**

Use of the rule effectiveness calculation method preferred by EPA does not interfere with the demonstration of the five percent per year emission reductions required by 189(d). MAG has recalculated the base and future year emissions using the EPA-preferred rule effectiveness calculation method. The rule effectiveness rates for Rules 310, 310.01 and 316 were calculated using the latest inspection data for 2008, 2009, and 2010 (through June 2010) provided by MCAQD. A comparison of the original rule effectiveness rates in the 189(d) plan against rates developed under the EPA-preferred methodology is provided in Table A.

Compared with the Plan, the EPA-preferred method increases the emission reduction percentage in 2008 and 2009 (by 3.5% and 0.4%, respectively) and reduces the percentage by 2.4% in 2010. Note that the MCAQD inspection data only records compliance rates through mid-2010. If rule compliance improves during the last half of 2010, the Plan estimates for 2010 will be higher than 18.0%.

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<sup>10</sup> The Clean Air Act has always provided states with wide latitude in formulating and revising their implementation plans. *National Steel v. Gorsuch*, 700 F.2d 314, 322 (6th Cir. 1983) citing *Ohio Environmental Council v. EPA*, 593 F.2d 24, 29 (6th Cir. 1979). EPA's role is secondary in that process because the states have primary responsibility for developing and implementing the plans to achieve and maintain attainment. *Train v. NRDC*, 421 U.S. 60 (1975). While EPA is not required to accept the state's data without evaluating it, EPA has evolved practices that states should be able to rely on when developing their attainment demonstrations. See, e.g., 700 F.2d at 323; *Latino Issues Forum v. EPA*, 558 F.3d 936, 946 (9th Cir. 2009).

**Table A. Comparison of 189(d) Plan Rule Effectiveness Rates vs. Rates Developed Using EPA-Preferred Methodology**

	Rule Effectiveness Rates in 2007 189(d) Plan				Rule Effectiveness Rates Using EPA-Preferred Method			
	Base	2008	2009	2010	Base	2008	2009	2010
MCAQD Rule 310	51.0%	64.0%	73.0%	80.0%	64.5%	83.0%	86.3%	88.4%
MCAQD Rule 310.01	68.0%	76.0%	76.0%	76.0%	77.5%	77.5%	77.5%	77.5%
MCAQD Rule 316	54.0%	64.0%	72.0%	80.0%	55.9%	49.6%	66.2%	77.6%
PM-10 Emission Reductions* (tons/year)		6,605	15,423	19,840		9,281	14,585	16,277
5% Reduction Targets (tons/year)		4,872	9,744	14,616		4,499	8,998	13,497
Emission Reductions Excess (tons/year)		1,733	5,679	5,224		4,782	5,587	2,780
Base Year (2007) Percentage Reduction		6.8%	15.8%	20.4%		10.3%	16.2%	18.0%

\*Includes all measures quantified in the 189(d) Plan, except contingency measures.

Under either calculation method, the control measures in the Plan reduce total emissions by more than five percent per year through 2010. Since the EPA-preferred method still demonstrates the required five percent PM-10 emission reductions in the 189(d) plan, there is no legitimate basis for disapproving the base or future year emission inventories. This is a technical issue, rather than an approvability one, that EPA should have identified during public review of the 2005 Periodic Inventory or shortly after submittal of the Plan in December 2007. The September 9, 2010 disapproval notice was the first time MAG received any indication that EPA was dissatisfied with the rule effectiveness calculation method. If EPA had identified this issue earlier, MAG could have prepared and submitted a supplement to the Five Percent Plan, Technical Support Document (TSD), demonstrating that the EPA-preferred method would not interfere with the five percent per year demonstration.

**EPA Comment, 75 FR 54810:**

*"Moreover, the underestimation of the effectiveness of Rule 310 and 310.01 resulted in a control strategy with a high probability of failure because the over-emphasis on achieving emission reductions from the sources regulated by these rules likely resulted in a corresponding de-emphasis on emission reductions from other sources contributing to the nonattainment problem in the Maricopa area."*

**MAG Response:**

EPA's contention, that there is a high probability of control strategy failure due to over-emphasis on Rule 310 and 310.01 sources, resulting in de-emphasis of other sources, is erroneous. In Table 3 of the FR notice, EPA compares the 2010 emission reductions by source category, concluding that *"the plan's emphasis on reducing emissions from the construction industry is out of proportion to that source category's relative contribution to the projected 2010 inventory."* The Clean Air Act does not require a 189(d) plan (or any other SIP) to contain emission reductions that are proportional to a source's emissions inventory contribution.

More importantly, EPA's Table 3 fails to account for the contingency measures in the Five Percent Plan, which are also legally binding commitments that are being implemented. Table B identifies the source distribution of the 25 control measures in the Plan that were quantified for emission reduction credit. It is evident from Table B that the adopted measures in the Plan are targeting all major sources, and most minor sources, of PM-10. It is also important to note that the mix of control measures implemented by the Plan has been successful in eliminating all PM-10 exceedances during stagnant conditions, since the Plan was submitted to EPA in 2007.

**Table B. Source Distribution of 25 Quantified Measures in the 189(d) Plan**

Source Category	Percent of Pre-Controlled 2010 Emissions	Percent of 2010 Emission Reductions
Construction	33.1%	56.5%
Paved Roads (including trackout)	19.1%	15.3%
Unpaved Roads	17.4%	16.6%
Fuel Combustion and Fires	5.6%	0.1%
Windblown Dust from Vacant Land	5.4%	3.7%
Offroad Vehicles	2.4%	0.7%
Agriculture	3.1%	2.0%
Unpaved Parking Areas	3.4%	3.0%
Leaf Blowers	0.9%	0.4%
Industrial Sources	3.9%	1.6%
Other Sources (<5%)	5.7%	0.0%
Total	100.0%	100.0%

Chapter Five of the Five Percent Plan describes the comprehensive control measure evaluation process that was conducted by MAG to ensure that all sources of PM-10 were controlled. The public participation process described in Chapter Nine of the Plan involved key stakeholders, including federal, state, and local government agencies, private industry, and the public. The comprehensive control measure evaluation and public participation processes and the breadth of sources addressed by the adopted measures attest to the fact that no sources were “over-emphasized” or “de-emphasized” in the Five Percent Plan.

**EPA Comment, 75 FR 54814:**

*“EPA has evaluated four of the 2008 exceedances recorded at the West 43<sup>rd</sup> Avenue monitor in south-central Phoenix that the State claims to be due to exceptional events. The exceedances were recorded on March 14, April 30, May 21 and June 4. On May 21, 2010 EPA determined that the events do not meet the requirements of the EER and therefore do not qualify as exceptional events for regulatory purposes.”*

**MAG Response:**

At a meeting with Arizona, Maricopa County, and MAG air quality executives on May 25, 2010, Jared Blumenfeld, EPA Region IX Administrator, stated that the Exceptional Events Rule (EER) is flawed. Staff from EPA OAQPS indicated in an October 1, 2010 videoconference that EPA is working on fixing the flaws. The White Paper in Attachment 1 provides Arizona’s perspective on the major deficiencies with the EER that need to be addressed by EPA. In addition to fixing the flawed rule, MAG requests that EPA reconsider its finding that the four high-wind days in 2008 do not qualify as exceptional events, based on the supplemental documentation ADEQ submitted to EPA in August 2010. This supplemental documentation provides additional compelling evidence that high-wind conditions on March 14, April 30, May 21 and June 4, 2008 meet all criteria of the EER and, therefore, should be reclassified as exceptional events for regulatory purposes. MAG supports and adopts the exceptional events documentation submitted by ADEQ in its comments on this proposed action.

**EPA Comment, 75 FR 54814:**

*“The 189(d) plan provides little or no support for the emission reductions attributed to these increased compliance measures.”*

*"We recognize that calculating accurate emission reduction estimates for increased compliance measures is challenging. It is, however, important for such estimates to have a technical basis, especially when such measures are expected to achieve the majority of the emission reductions in a SIP. One way to begin to address this issue would be to initiate an ongoing process to verify that compliance rates are increasing as expected and that, as a result, the projected emission reductions are actually being realized."*

**MAG Response:**

Since the Plan was submitted in 2007, MCAQD has been collecting the inspection data needed to verify the emission reduction estimates attributed to increases in rule compliance by the Plan. A process to verify compliance rates has been ongoing for many years and the inspection data for 2008, 2009, and 2010 (through June, 2010) reveals that compliance rates are increasing as anticipated in the Plan.

Table A compares rule effectiveness rates calculated for the Plan (based on the 2005 Periodic Emissions Inventory) versus the EPA-preferred method (used in the 2008 Periodic Emissions Inventory). The last row of Table A shows that the percent emission reductions claimed in the Plan for Rules 310, 310.01 and 316 in 2008 and 2009 were conservative, while the reduction for 2010 was slightly over-estimated (by 2.4%). If MCAQD inspection data indicates that rule compliance rates for calendar year 2010 are higher than in mid-2010, the 2010 percentage reduction calculated using the EPA-preferred method will be even closer to the 2010 Plan estimate. This demonstrates that the expected emission reductions in the Plan are being realized and the original Plan estimates were reasonable.

**EPA Comment, 75 FR 54815:**

*"Because the 189(d) plan projects emission reductions surplus to the 5% targets in each year, it is theoretically possible that creditable reductions from the 25 quantified measures would still achieve the 5% reductions when recalculated from an accurate base year inventory. However that could only be determined by an EPA review of a revised plan based on adjusted calculations."*

**MAG Response:**

Table A shows that the base and future year inventories in the Five Percent Plan are similar to the inventories deemed to be more "accurate" by EPA. Therefore, the surplus five percent per year reductions are not needed to achieve the annual reduction targets. Since the substitution of the more "accurate" inventory is a technical issue that has no impact on the five percent demonstration, it is unclear why this issue would provide a basis for disapproval of the Plan. This change should be effected via a supplement to the TSD, rather than a formal SIP revision.

**EPA Comment, 75 FR 54816 and 54817:**

*"For example, Measure #19 is intended to reduce off-road vehicle use in areas with high off-road vehicle activity. For this measure, the 189(d) plan assigns emission reduction credit to the requirement in ARS 9-500.27. A, as submitted in the 189(d) plan, that cities and towns in the Maricopa area adopt, implement and enforce ordinances no later than March 31, 2008, prohibiting the use of such vehicles on unpaved surfaces closed by the landowner."*

*"However, because the 189(d) plan was submitted at the end of 2007, the contingency measures, i.e., the vehicle use prohibition, could not be fully implemented throughout the Maricopa area without additional future legislative action on the part of a number of governmental entities."*

*"This is the case with Measure #19, mentioned above. For that measure, the 189(d) plan claims emission reduction credit assuming that all jurisdictions subject to the 2008 statutory requirement will comply."*

**MAG Response:**

To ensure that the legally-binding measures, including contingency measures, are being implemented, MAG prepares annual reports that track the status of the 53 measures in the Five Percent Plan. The first such tracking report is the "2008 Implementation Status of Committed Measures in the MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area", published in January 2010. The 2008 tracking report identifies the actions that were taken to implement Measure #19, "Reduce off-road vehicle use in areas with high off-road vehicle activity," in 2008. Attachment 2 shows that this contingency measure was fully implemented in 2008 *throughout the nonattainment area, with no additional future legislative action required by any other governmental entity.*

EPA's comment fails to recognize that the contingency measures are legally-binding commitments that are being implemented early so that the standard can be achieved as expeditiously as practicable. In the Plan, emission reduction credit for this contingency measure was reduced by one-third in 2008 to reflect the March 31, 2008 implementation date identified in SB 1552. The 2008 tracking report shows that Measure #19 was implemented according to the schedule shown in the Plan and therefore, the emission reductions claimed for this contingency measure in the Five Percent Plan were appropriate.

**EPA Comment, 75 FR 54817:**

*"Furthermore, not only do some of the contingency measure commitments fail to meet the requirement of section 172(c)(9) that such measures are to be implemented with minimal further action, but because they depend on future actions that may or may not occur, it is also impossible to accurately quantify emission reductions from them at the time of plan development and adoption."*

**MAG Response:**

None of the contingency measures in the Five Percent Plan requires further legislative action. According to the 2008 tracking report, eight of the nine measures are being implemented according to the legally-binding commitments and schedules included in Chapter Six of the Five Percent Plan. Only contingency Measure #5 has not been implemented by ADEQ because of budgetary constraints.

The EPA comment implies that it is not possible to accurately quantify emission reductions for future measures that may or may not occur. Following this logic, if the contingency measures were to be triggered by failure to achieve attainment or RFP (rather than early implementation), it would be impossible to meet the one year of RFP emission reduction requirement, because the measures would *depend on future actions that may or may not occur.* With the exception of Measure #5, the contingency measures in the Five Percent Plan were implemented in 2008 and the benefits were conservatively estimated, as supported by the quantification of actual emission reductions in the 2008 tracking report.

**EPA Comment, 75 FR 54817:**

*"Another example of this quantification issue is Measure #26 regarding the paving or stabilization of existing public dirt road and alleys...This measure includes commitments in*

*resolutions adopted by 11 cities and towns to pave roads from 2007 through 2010 and claims emission reduction credit assuming full compliance."*

**MAG Response:**

Under contingency Measure #26, eleven cities and towns made legally-binding commitments to pave or stabilize dirt roads and alleys. Credit for these measures was apportioned to the years 2007-2010 based on the schedules contained in the commitments. The 2008 tracking report indicates that there were 15 more miles of dirt roads and 21 more miles of dirt alleys paved than indicated in the 2008 commitments. In addition, there were three less miles of dirt roads and 70 more miles of dirt alleys that were stabilized than in the 2008 commitments. Overall, the credit assumed for Measure #26 in the Five Percent Plan is far less than the actual emission reductions that occurred due to paving and stabilizing dirt roads and alleys in 2008.

**EPA Comment, 75 FR 54817:**

*"See also Measure #5 which quantifies as a contingency measure a requirement in ARS 49-457.02 that ADEQ establish a dust-free development program by September 19, 2007...However, a 2010 report prepared by MAG addressing the 2008 implementation status of the 53 measures in the 189(d) plan states that this measure was not implemented because ADEQ delayed the certification program indefinitely due to budgetary constraints."*

*"See also Measure #24 which includes among others, a commitment by the Arizona Department of Transportation (ADOT) to require in the contract awarded in January 2008 that contractors use PM-10 certified street sweepers on all State highways in the Maricopa Area...The 2008, 2009, and 2010 emission reductions claimed for Measure #24 assume implementation of the ADOT component of the measure, However, the 2008 Status Report states that "ADOT's current contract...does not require the use of PM-10 certified street sweepers..."*

**MAG Response:**

The Five Percent Plan assigns emission reductions of 28.9 tons/year in 2008, 21.5 tons/year in 2009, and 17.6 tons/year in 2010 to Measure #5. The renegotiated ADOT contract requiring use of PM-10 certified sweepers became effective on February 20, 2010. The ADOT contract portion of Measure #24 was assigned emission reductions of 10.37 tons/year in 2008 and 11.31 tons/year in 2009 in the Plan. The benefits attributed to these two contingency measures were small and their elimination does not interfere with meeting the one-year of RFP emission reduction target of 4,869 tons/year. As shown in these two examples, the emission reductions for contingency measures in the Plan were conservatively estimated. In addition, the total benefits of the contingency measures in the Plan exceed the one-year of RFP target by 354 tons/year in 2008, 2,344 tons/year in 2009, and 4,290 tons/year in 2010. These excesses provide a safety margin that allows for delays in implementation, such as those experienced by ADEQ and ADOT, without compromising attainment of the one year of RFP target in 2008-2010.

**EPA Comment, 75 FR 54817:**

*"The 189(d) plan provides no methodology or support for the PM-10 emission reductions credited to a number of the contingency measures. For example, the group of Measures #14, #15 and #17 designated in the plan as "multiple" is intended to reduce trackout onto paved roads...The 189(d) plan...states that the reduction in trackout emissions in the PM-10 nonattainment area is expected to be at least 15 percent in 2008-2010...No information is provided in the 189(d) plan regarding how the 15 percent was determined. Furthermore, the*

*reductions from each measure are not disaggregated so it is impossible to determine the source of the claimed emission reductions or how they were calculated for each measure."*

**MAG Response:**

MAG conducts local data collection studies (e.g., the Silt Loading Study in 2006, the PM-10 Source Attribution and Deposition Study by Sierra Research and T&B Systems in 2006-2007; and the Unpaved Road Inventory in 2007-2009) that are useful in quantifying and verifying the technical assumptions in PM-10 plans. The annual MAG tracking report also provides data with which to verify the accuracy of the emission reductions for the 25 measures that were quantified in the Five Percent Plan.

For example, in the description of Measure #28, the Five Percent Plan TSD states: *"The emission factors for paved roads with high silt loadings due to trackout and dragout from dirt shoulders and other sources of fugitive dust were derived from the MAG Silt Loading Study conducted by the College of Engineering, Center for Environmental Research and Technology, University of California, Riverside (CE-CERT). CE-CERT used state-of-the-art mobile technologies to measure PM-10 concentrations and derived PM-10 emission rates for paved roads. The SCAMPER (System for Continuous Aerosol Monitoring of Particulate Emissions from Roadways) vehicle collected data on a 104-mile route that was designed to be representative of typical paved road types and sources of fugitive dust in the PM-10 nonattainment area. The SCAMPER vehicle was driven over the entire route during a five-hour period (9:30 a.m. to 2:30 p.m.) on 13 weekdays and five weekend days in March, June, September and December of 2006."*

The description of the trackout reduction Measures #14, #15, and #17 in the Five Percent Plan TSD indicates that the SCAMPER data was used to determine average PM-10 emission rates for paved roads with high trackout levels. These high trackout emissions were reduced by Measure #28, Paving and Stabilizing Unpaved Shoulders, before applying the 15 percent reduction that represents the benefits of contingency Measures #14, #15 and #17. Although allocation of the 15 percent benefit among the three measures is not explicitly documented in the Plan, Measure #14, Reduce dragout and trackout emissions from nonpermitted sources, for which Maricopa County adopted Rule 310.01 revisions in March 2008, would contribute most of the 15 percent reduction. Unfortunately, there was no empirical data to assist in quantifying the future benefits of a measure that has not been implemented in the Maricopa area or elsewhere. In these cases, MAG relies on the significant experience that its staff and consultants have in quantifying the benefits of measures for other PM-10 plans. The 15 percent reduction in trackout emissions attributed to Measures #14, #15 and #17 is still considered to be an appropriate and conservative estimate.

It is also important to note that all emission reduction assumptions in the Five Percent Plan were reviewed by the MAG Air Quality Planning Team and the MAG Air Quality Technical Advisory Committee (both of which include EPA representatives) prior to Plan submittal and MAG received no comments on or opposition to the 15 percent reduction assumption at that time. It is difficult to fathom that any PM-10 nonattainment area would have more expertise and locally-collected data available to develop the technical assumptions in the Five Percent Plan, than the Maricopa County area.

**EPA Comment, 75 FR 54817:**

*"Similarly, for Measure #1, the plan identifies annual emission reductions from seven source categories resulting from public education and outreach in various local jurisdictions but does not explain how these reductions were calculated...See also Measure #5 which provides annual emission reduction credits without any supporting information."*

**MAG Response:**

Pages IV-1 and IV-2 in the TSD for the Five Percent Plan describe how the emission reduction of 0.1 percent was applied to Measures #1 and #5. For Measure #1, this 0.1 percent reduction was applied to each of the seven source categories that would be positively impacted by public education and outreach programs conducted throughout the PM-10 nonattainment area. The total impact of Measure #1 is minor, ranging from 48 tons/year in 2008 and 2009, to 49 tons/year in 2010.

For Measure #5, the 0.1 percent reduction was applied to each of the seven construction source categories. Once again, the total benefit of this measure is minor, ranging from 29 tons/year in 2008, to 22 tons/year in 2009, to 18 tons/year in 2010.

As shown in these two examples (and responses to previous comments on emission reductions for contingency measures), the benefit for these measures was conservatively estimated. The total benefits of the contingency measures in the Plan exceed the one-year of RFP target by 354 tons/year in 2008, 2,344 tons/year in 2009, and 4,290 tons/year in 2010. The conservative estimates of benefits, along with the excess benefit safety margin, result in a set of contingency measures that reduce at least one-year of RFP in 2008-2010, as reported in the Five Percent Plan.

**EPA Comment, 75 FR 54818:**

*"Given the overemphasis in the plan on reducing emissions from construction activities, it is quite possible that more reductions in onroad emissions will be required to meet the applicable requirements."*

**MAG Response:**

EPA contends that the Five Percent Plan over-emphasizes controls on construction activities and de-emphasizes controls on other sources that are contributing to nonattainment of the PM-10 standard. These comments ignore the success of the Five Percent Plan measures in eliminating stagnation-based exceedances in 2008 through 2010.

PM-10 monitors in the Maricopa County nonattainment area recorded 30 exceedances of the 24-hour standard in both 2005 and 2006. Most of those exceedances occurred during the fall and winter under low wind and severe inversion conditions. Recognizing the difficulty of demonstrating attainment under these conditions, MAG undertook an extensive field study to quantify source contributions under low wind conditions in the Salt River area<sup>11</sup>. EPA staff commented on the analysis and interpretation of data collected in the study. EPA staff also commented on subsequent efforts to identify and quantify the benefits of control measures focused on sources addressed in the field study. EPA staff also commented on the development of the modeling protocol employed in the Five Percent Plan and was well aware that the focus of the Plan was to identify a mixture of controls that would bring the area into attainment under the conditions of most concern – stagnation conditions. To this end, the Five Percent Plan has been successful, as exceedances of the PM-10 standard under stagnation conditions have disappeared since the adoption of the Plan.

While the Five Percent Plan addressed both stagnant and high wind conditions, the mix of wind related control measures was limited. Representation of high wind emissions in the Periodic Emissions Inventory was small (roughly 6%), since their occurrence was infrequent. AERMOD was used in the Five Percent Plan to model stagnant (December 11-13, 2005) and high wind (February 15, 2006) design day

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<sup>11</sup> PM-10 Source Attribution and Deposition Study, conducted by Sierra Research for the Maricopa Association of Governments, February 2008

conditions and the mix of adopted controls was sufficient to demonstrate attainment. Given this perspective, MAG finds EPA comments on the adequacy of the selected control measures to be inappropriate and inconsistent.

The mix of controls adopted to eliminate stagnation-driven exceedances was appropriate. The Five Percent Plan did not emphasize controlling emissions under elevated wind conditions because (1) their occurrence was less frequent and (2) exceptional event submissions for high wind days were rarely subject to dispute. Changing the mix of selected controls to proportionately address the source representation in the Five Percent Plan emissions inventory will do little to reduce the emissions under high wind conditions. Similarly, increased reductions in onroad emissions will do little to reduce emissions under high wind conditions.

**ATTACHMENT 1**

**ARIZONA'S RECOMMENDED CLARIFICATIONS TO THE EXCEPTIONAL EVENTS RULE**

## **ARIZONA'S RECOMMENDED CLARIFICATIONS TO THE EXCEPTIONAL EVENTS RULE**

Representatives of the State of Arizona participated in the September 2, 2010 EPA call with other state and local governments to discuss what the agency characterized as "Ideas for Improvement" as far as the implementation of the Exceptional Events Rule (72. Fed. Reg. 13560; March 22, 2007) (the "EER"). As a member of WESTAR, Arizona strongly supports the September 11, 2009 recommendations from WESTAR, as well as those from the California Air Resources Board as to how the implementation of the EER might be improved. In addition, based upon our extensive experience in attempting to understand and comply with the requirements of the EER, we would recommend that EPA act to clarify the EER in three critical respects.<sup>1</sup>

### **1. Process**

Neither Section 319 of the Clean Air Act ("CAA") nor the EER sets forth a procedure for a State to follow when it submits "appropriate documentation" for an exceptional event demonstration or the procedure to be followed by EPA when it considers that documentation. Apparently a specific procedure was felt to be unnecessary in the rules because the documentation package would only be submitted after extensive "collaboration" and "consultation" had occurred between the State and EPA. In the preamble to the EER, the critical role played by consultation and collaboration in the consideration of exceptional events documentation is mentioned on five occasions. Indeed, in response to a comment that EPA establish an appellate process when regional EPA offices fail to concur with a demonstration, EPA responded that such a process was unnecessary "because we anticipate that the States and Regional Offices will be working closely through the data and documentation submission process." 72 Fed. Reg. at 13574. It is the State's experience that if the consideration of exceptional events demonstration is to produce a predictable and consistent result, there must be a more formalized, structured and streamlined procedure for consideration of exceptional events by the regional offices and the procedure must explicitly require EPA to engage in consultation and collaboration with the States at every stage prior to submission. Also, the procedure must require that there be an administrative record upon which the regional offices must rely and because the EER requires that a weight of evidence approach be applied, the record must contain the totality of the information on which the determination is based and EPA must specify the elements of the record on which its decision was based.<sup>2</sup>

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<sup>1</sup> All of our recommendations are based on either the language of Clean Air Act Section 319, the EER and its Preamble or implementation of the EER from EPA determinations in the Federal Register.

<sup>2</sup> As prescribed by the EER and its preamble, the State believes that the following are the steps in the exceptional event decision process:

**Prior to Submission:**  
Exceptional Event Identification  
Exceptional Event Documentation Development  
Public Comment

2. **The Information Necessary to Demonstrate that Anthropogenic Sources are “Reasonably Well-Controlled” at the Time that the Event Occurred.**

The level and nature of the documentation necessary to demonstrate that anthropogenic sources are reasonably well-controlled as required by CAA section 319(b)(1)(A)(ii) and the EER at 40 C.F.R. § 50.1(j), must be specifically set forth in guidance. From EPA’s determinations on past exceptional events demonstrations, there are several principles that the State believes should be incorporated in guidance:

- In keeping with the predecessor to the EER, EPA’s Natural Events Policy, that was relied upon by Congress when CAA section 319 was amended, if a State has what EPA has determined are Best Available Control Measures in place and the means and commitment to enforce them, it should be presumed that the anthropogenic activities to which the measures applied are reasonably controlled;
- Exceptions to this presumption exist if there were unusual emissions as far as nature or extent linked to anthropogenic activities that were observed during that period.<sup>3</sup>

The guidance should also stress that States making the demonstration should not have to show that sources upwind of an affected monitor were “actually controlled,” since such a showing, particularly in an urban environment, is a “practical impossibility.” Id. 73 Fed. Reg. at 14692.

3. **Demonstrating the Clear Causal Relationship Between the Measurement Under Consideration and the Event Claimed to have Affected the Air Quality in the Area.**

The guidance should state that the clear causal relationship demonstration required by CAA section 319 need only be shown for the “particular air quality monitoring location” at which the measurement occurred. This is what is explicitly required in both CAA section 319(b)(3)(B)(ii) and the EER at 40 C.F.R. § 50.14(c)(3)(iii)(A). Thus, while information about the temporal and spatial extent of an event is relevant to the demonstration of causality (see 72 Fed. Reg. at 13573) and may

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**Post Submission:**

Completeness Determination  
State Responses Correcting Deficiencies  
EPA Exceptional Event Documentation Development  
Public Comment Prior to Decision

<sup>3</sup> See generally the analysis of these principles in EPA’s approval of the San Joaquin Valley PM-10 nonattainment area exceptional events demonstration at 73 Fed. Reg. 14687 at 14687, 14691 and 14693 (March 19, 2008).

help determine the overall magnitude of the event, the clear causal relationship criterion need only be demonstrated for the monitor(s) that actually were affected by the event.

**ATTACHMENT 2**

**2008 STATUS OF COMMITTED MEASURE #19 IN THE MAG FIVE PERCENT PLAN FOR PM-10:  
"REDUCE OFF-ROAD VEHICLE USE IN AREAS WITH HIGH OFF-ROAD VEHICLE ACTIVITY"**

**2008 Status of Committed Measure #19 in the MAG 2007 Five Percent Plan for PM-10  
"Reduce off-road vehicle use in areas with high off-road vehicle activity"**

Ordinance to prohibit off-road vehicle use required by SB 1552. (A.R.S. § 9-500.27 A.- E. and A.R.S. § 49-457.03)

In February 2008, Maricopa County adopted the P-28 Off-Road Vehicle Use in Unincorporated Areas of Maricopa County Ordinance. This ordinance was developed to address dust concerns raised by vehicle use and trespass on private and public property. It is intended to complement Maricopa County Rule 310.01, which focuses on property owners' responsibility to maintain soil stabilization.

Currently, the Maricopa County Ordinance P-28 is undergoing revisions to its penalty structure, which is intended to provide more flexibility in adjudicating cases. Until these revisions are approved, the County is developing information on frequent complaint areas and access points, enforcement history, ongoing outreach efforts by police departments, Justice Court procedures, and database needs. In addition to responding to complainants' concerns, MCAQD has organized a group of inspectors to gather this type of information and begin making direct contacts in the field. In 2009, MCAQD initiated efforts to develop a partnership with law enforcement agencies, not only to address the inspectors' limited authority on these contacts, but also to provide a consistent enforcement message to the public.

23 local governments have new or existing ordinances to prevent or discourage off-road vehicle use and restrict access to areas with high off-road vehicle use.

ADEQ distributed 3,700 hard copies of "Nature Rules" map to off-road highway vehicle (OHV) dealers and posted materials on the Arizona State Parks website (website received 11,660 visits), ADEQ's website (website received 2,741 visits), and the Arizona Game and Fish Department website.

Maricopa County, 17 local governments, and ADEQ, have conducted public education and outreach to discourage off-road vehicle use in the PM-10 nonattainment area. The Tonto National Forest included a segment on dust control education in its off-highway vehicle (OHV) training program.

8 jurisdictions with high off-road activity have restricted vehicle use by installing signs and/or physical barriers.

One local government stabilized 57 acres with hydroseed and posted "No Trespassing" signs on 4.1 miles of vacant areas in two washes.

Arizona State Trust Land spent \$159,203 to implement the following control measures: installation of 1,037 linear feet of concrete barriers; installation of 7,352 linear feet of chain link fence; purchase of 300 "No Trespassing" signs; purchase and installation of two 10-foot gates; posting of 38 "Area Closed by Commissioners Orders" signs; posting of 2 "Closed for Soil Stabilization" signs; posting of 14 "No Trespassing" signs; and increasing the presence of law enforcement.

Arizona State Parks installed one kiosk and two access gates; replaced 1 mile of fencing; provided outreach at 77 official events; and provided 3,100 public information contacts. Arizona Game and Fish Department issued 27 citations for violations of the OHV law.



October 20, 2010

VIA U.S. MAIL AND ELECTRONIC MAIL

Ms. Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
EPA Docket Center, Mailcode 2822T  
1200 Pennsylvania Ave, NW  
Washington, DC 20460-0001

Re : Comments on Docket ID No. EPA-R09-OAR-2010-0715: Proposed Partial Approval  
Partial Disapproval of the Maricopa Area 5% Plan

Dear Administrator Jackson:

The Arizona Department of Environmental Quality (ADEQ), Maricopa Association of Governments (MAG) and the Maricopa County Air Quality Department (MCAQD) provide the following comments on the proposed partial approval and partial disapproval of the Maricopa Area 5% Plan in Docket ID No. EPA-R09-OAR-2010-0715. This proposed action would partially approve portions of the "MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area" (the 5% Plan) developed by the Maricopa Association of Governments in 2007, and submitted by the State of Arizona to EPA as a revision to the State Implementation Plan (SIP) for the Maricopa County serious PM-10 non-attainment area.

ADEQ, MAG and MCAQD each play a significant, yet independent role in addressing air pollution issues within the Maricopa County serious PM-10 nonattainment area. EPA's proposed partial approval and partial disapproval of the 5% Plan offers little recognition of the strong efforts that have been made to combat air pollution within the area. Arizona's collective efforts and the implementation of the 5% Plan have resulted in significant air quality improvements. Using the annual average concentration at five monitoring stations within the Phoenix area<sup>1</sup>, concentrations of PM-10 between 1990 and 2009 have declined 10 micrograms per cubic meter, or the equivalent of 24%. Using the annual average concentration at eleven monitoring stations within the Phoenix area<sup>2</sup>, ADEQ has observed similar improvements as concentrations of PM-10 between 2000 and 2009 have declined 15 micrograms per cubic meter, or the equivalent of 25% (see Attachment 1). According to data compiled by MAG, out of a possible 6,222 total daily monitor readings (17 monitors x 366 days) during 2008, there were

<sup>1</sup> The West Phoenix, Mesa, North Phoenix, Glendale and South Scottsdale monitors

<sup>2</sup> The West Phoenix, Mesa, North Phoenix, Glendale, Central Phoenix, South Scottsdale, Greenwood, South Phoenix, West Chandler, Higley and Durango Complex monitors.

only 11 exceedances. In other words, the monitors showed that the Phoenix area had clean air 99.82% of the time. Looking at only the West 43<sup>rd</sup> Avenue monitor, the results are similar. Of the 366 monitoring days in 2008 only five, or 1.4%, of the days exceeded the standard at that monitor. Furthermore, the majority of these exceedances have been documented by ADEQ and MAG to be exceptional events.

Cleaner air has been achieved at the same time the Phoenix metropolitan area has experienced unprecedented growth. In 1990, Maricopa County was home to approximately 2.1 million residents. By 2000, the County's population had grown to 3 million. By 2009, census estimates place the population of Maricopa County at 4.1 million people<sup>3</sup>. As population within the County has increased 100% since 1990, the annual average concentration of PM-10 air pollution within the County has decreased by 24%. If EPA were to concur with the State's documentation of exceptional events in 2008, the Maricopa County serious PM-10 nonattainment area would likely have three years of data demonstrating that the area had come back into compliance with EPA's national air quality standard. While there is always an opportunity to improve in some way to reduce pollution and protect public health, there must also be a recognition that some sources of air pollution are naturally occurring and can not be controlled.

#### **MEASURES PROPOSED FOR FULL APPROVAL**

ADEQ, MAG and MCAQD support EPA's approval of the twenty measures listed by EPA in Table 4 of the proposed action on the 5% Plan. We appreciate EPA's acknowledgment of the strength of these measures in controlling PM-10 in the Maricopa County region.

#### **EXCEPTIONAL EVENT DEMONSTRATIONS**

EPA's proposed action is partially based upon a May 21, 2010 determination by Region IX Administrator Jared Blumenfeld to not concur with four exceptional event demonstrations provided by ADEQ for March 14, April 30, May 21, and June 4, 2008. As noted in numerous letters to Regional Administrator Blumenfeld, letters to Administrator Jackson, and comments on EPA's proposed consent decree that set the schedule for EPA's actions on the 5% Plan, ADEQ, MAG and MCAQD maintain that the process EPA used, and conclusion reached, were both in error. Had EPA followed the guidance set forth in the preamble for the Exceptional Events Rule (40 CFR § 50.14), EPA would have consulted and collaborated with Arizona prior to making a determination. This consultation and collaboration would have resulted in the development of additional information that would have resolved the concerns that EPA expressed in its May 21, 2010 non-concurrence. Instead, ADEQ and MAG were left to submit many volumes of information regarding these four dates, reaffirming the State's position that exceedances at the West 43<sup>rd</sup> Avenue monitor in Phoenix truly were the result of exceptional events that could not be reasonably controlled. A list of all of the documents that have been submitted, or are considered to be instructive on this matter, are identified in Attachment 2.

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<sup>3</sup> <http://quickfacts.census.gov/qfd/>

Although EPA provided responses to the cover letters that submitted additional documentation, ADEQ and MAG continue to await EPA's response to the technical details enclosed in these letters. As a result, ADEQ, MAG and MCAQD incorporate each of the documents identified in Attachment 2 as comments on EPA's proposed action and request consideration of the information prior to the disapproval of the 5% Plan.

EPA has publicly acknowledged that improvements can be made to the Exceptional Events Rule (EER) and/or its implementation. This is important because EPA used the EER to disagree with ADEQ and MAG's findings and conclude Maricopa County continues to be in non-attainment. The circular reasoning encouraged and condoned by the existing EER leads to absurd results with significant consequences. While it is unlikely that EPA will promulgate a policy memo or guidance on the EER prior to a final action on the 5% Plan, there are two specific principles that ADEQ, MAG and MCAQD ask EPA to consider when reviewing the additional documentation that is being submitted in these comments:

1. Reasonableness of Controls

The Maricopa County area has been classified as a serious non-attainment area for many years. All of the sources that have been determined to be significantly contributing to the non-attainment area have been the subject of BACM and Most Stringent Measures (MSM) for many years. In an urban environment such as the greater Phoenix metropolitan area, it is virtually impossible to verify the compliance status of every operation that emits PM-10. ADEQ, MAG and MCAQD contend that implementation of the control program throughout the Maricopa County should bear significant weight when determining whether reasonable controls have been applied.

In addition, evidence that Notices of Violation (NOVs) were issued on the day of an exceptional event should not be evidence that BACM and MSM were not in place. When considering the value of these NOVs, EPA should consider the total number of inspections that were done and the relative impact emissions associated with the NOV would have on the monitoring area. In general, ADEQ, MAG and MCAQD consider NOVs to be evidence of a properly functioning control program, and not direct evidence to the contrary.

2. Clear Causal Relationship

The EER has established that every exceptional event demonstration must be reviewed on a case-by-case basis. Section 319(b)(3)(B)(ii) and 40 CFR 50.14(c)(iii)(A) explicitly require that the clear causal relationship be demonstrated for the "particular air quality monitoring location" at which the measurement occurred. As a result, while it might be interesting to note the overall magnitude of an event by documenting the number of other monitors that show exceedances at the same time, this should not be the only criteria used to

judge whether an exceedance at a single monitor is exceptional. It is ADEQ, MAG and MCAQD's experience that a single monitor can experience an exceptional event due to the circumstances that exist at that monitor.

## **EFFECT ON ECONOMY**

If EPA finalizes the disapproval of the Plan, a conformity "freeze" will result within 30 to 90 days after the effective date of the disapproval. A conformity freeze would mean that only those projects that are scheduled to occur in the first four years of the most recent conforming Regional Transportation Plan ("RTP") and Transportation Implementation Plan ("TIP") can proceed and no new or amended RTPs or TIPs can be found to conform to the SIP until the new SIP is approved by EPA. Given the dynamic nature of the transportation planning process for the Maricopa area, the impact of a long-term conformity freeze would be devastating on the economy. MAG processes amendments to the TIP frequently, often on a monthly basis. It is crucial that this process remain fluid, especially in this economic downturn as unexpected changes to the TIP have been forced due to declining revenues. In addition, the region would not be able to take advantage of stimulus dollars for new major projects during a conformity freeze.

Few counties, if any, in the country have been as devastated by this recession as Maricopa County. A disapproval of the 5% Plan would further substantially damage our economic situation with significant negative impacts on individual families and communities. Foreclosure rates in the Phoenix metro area are at an all-time high, with nearly 60,000 distressed properties either already foreclosed or pending foreclosure. Almost 100,000 construction jobs have been lost in the region over the last three years.

## **CONCLUSION**

EPA's proposed partial disapproval of the 5% Plan is inappropriate when considering the timing of EPA's decision and actual number of exceedances within Maricopa County. All non-attainment area plans are precisely that - plans. Plans are developed using the best available information about the conditions that exist at the time of development. This information is then projected into the future utilizing the best assumptions about what is likely to occur in the future. Under normal circumstances, EPA's final action on any plan already benefits from 18 months of information that was unavailable at the time of the plan's development and submission. In the case of the 5% Plan, EPA did not act before its non-discretionary deadline of June 30, 2009. As a result, EPA benefitted from the hindsight of yet another 18 months (for a total of three years from 2008 to 2010). ADEQ, MAG and MCAQ, on the other hand, could only guess what would happen in 2008, 2009, and 2010 when the plan was submitted in 2007.

At the same time, EPA has added uncertainty to the planning process by making use of tools such as the Exceptional Events Rule confusing and impractical. Instead of acknowledging that a serious PM-10 non-attainment area plan calls for the implementation of BACM throughout the non-attainment area, EPA proposes to use an exceedance from an exceptional event as a demonstration that the sources within the non-attainment area are not reasonably controlled.

Ms. Lisa Jackson  
U.S. Environmental Protection Agency  
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EPA then appears to reason that the plan does not adequately apply BACM, ensuring that the event can never be considered exceptional. Such circular reasoning can only lead to a cycle of submission and disapproval of plans, forcing Arizona to expend limited resources on issues and problems that are beyond its reasonable control.

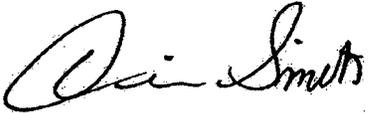
There are always opportunities to improve air quality, and ADEQ, MAG and MCAQD are committed to making improvements to the 5% Plan. At the same time, ADEQ, MAG and MCAQD encourage EPA to consider the heavy impacts of its decision in this matter, especially given these already difficult economic times. We understand that EPA has some discretion about the date upon which some of the sanctions may occur. Consequently, ADEQ, MAG and MCAQD ask that EPA exercise its discretion and ensure that any conformity "freeze" that might occur begin at least 90 days after the effective date of the final action.

Thank you for your attention.

Sincerely,



Benjamin H. Grumbles, Director  
Arizona Department of Environmental Quality



Dennis Smith, Executive Director  
Maricopa Association of Governments



William Wiley, Director  
Maricopa County Air Quality Department

Cc: Gregory Nudd, EPA

Attachments (2):

1. PM10 Trends in Phoenix Metro
2. List of Documents

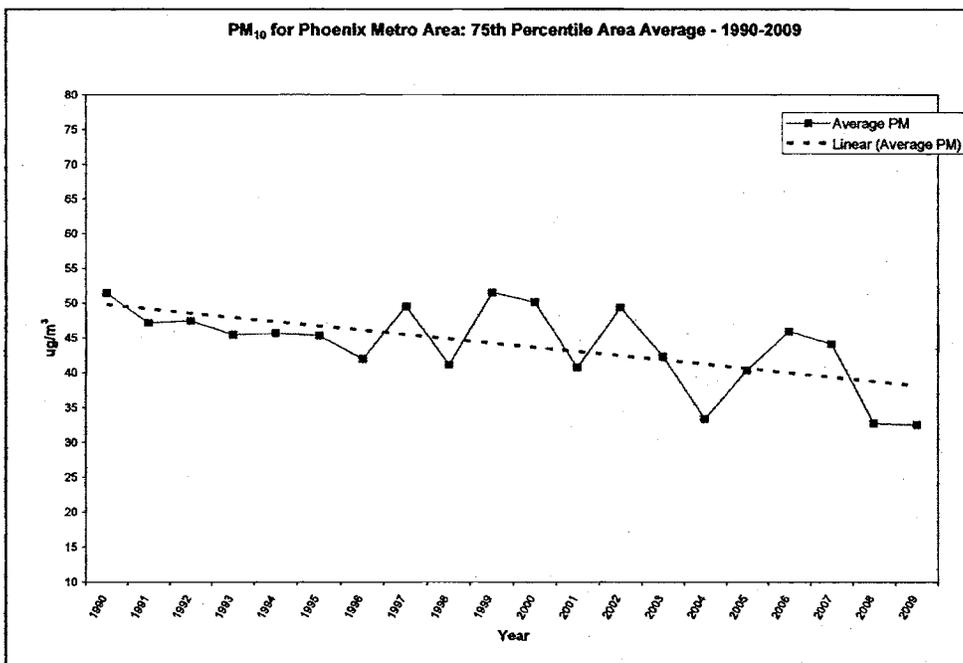
## PM<sub>10</sub> Trends in Phoenix Metro

1990 – 2009

For the twenty year period from 1990 to 2009, five sites were used to assess PM<sub>10</sub> trends in the Phoenix Metropolitan area. The five sites include West Phoenix, Mesa, North Phoenix, Glendale, and South Scottsdale.

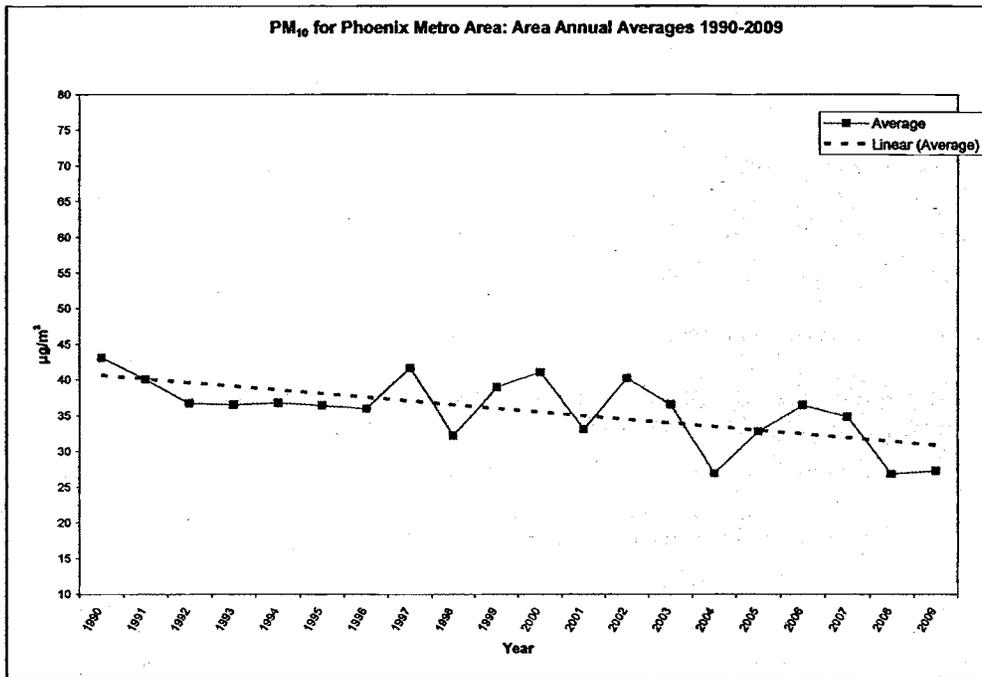
*Using the 75<sup>th</sup> Percentile as the indicator:*

1990 – 2009 → Over the last 20 years, there has been a 12  $\mu\text{g}/\text{m}^3$  decrease in PM<sub>10</sub> concentrations within the Phoenix Metro area (5 sites were used). This equates to a 24% decrease in PM<sub>10</sub> concentrations over the 20 year period.



*Using the Annual Average as the indicator:*

1990 – 2009 → Over the last 20 years, there has been a 10  $\mu\text{g}/\text{m}^3$  decrease in PM<sub>10</sub> concentrations within the Phoenix Metro area (5 sites were used). This equates to a 24% decrease in PM<sub>10</sub> concentrations over the 20 year period.

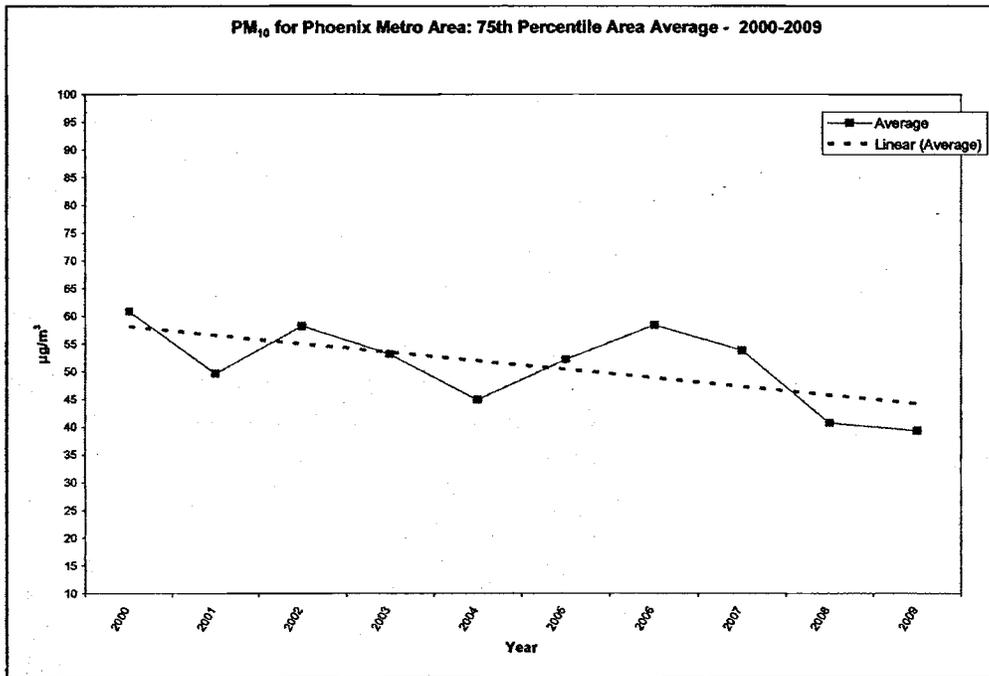


### 2000 – 2009

For the ten year period from 2000 to 2009, eleven sites were used to assess PM<sub>10</sub> trends in the Phoenix Metropolitan area. The eleven sites include West Phoenix, Mesa, North Phoenix, Glendale, Central Phoenix, South Scottsdale, Greenwood, South Phoenix, west Chandler, Higley, and the Durango Complex.

*Using the 75<sup>th</sup> Percentile as the indicator:*

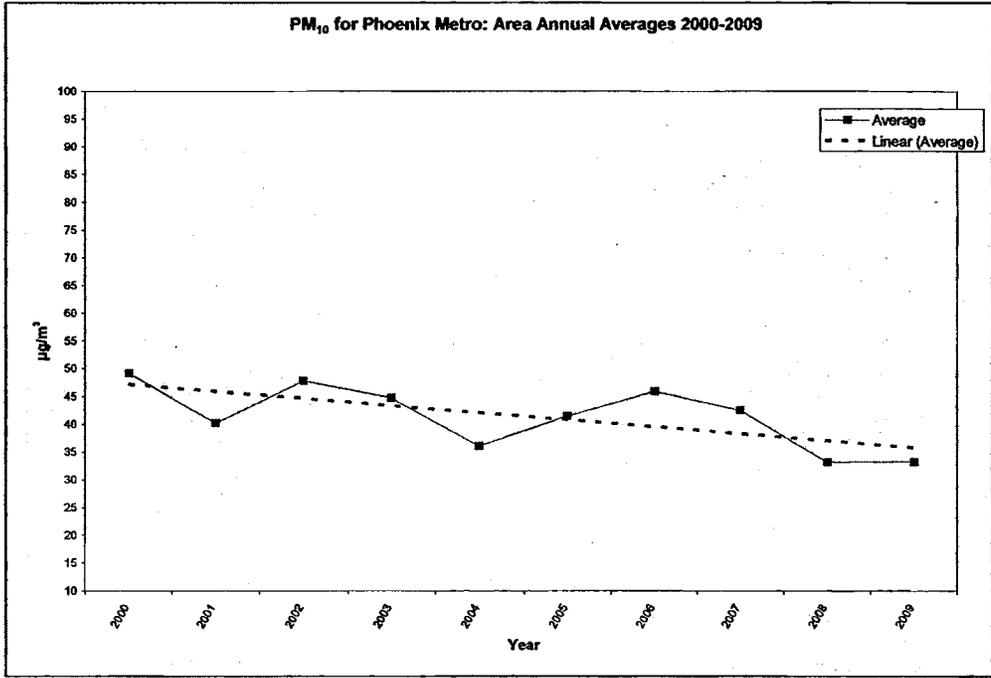
2000 – 2009 → over the last 10 years, there has been a 15 µg/m<sup>3</sup> decrease in PM<sub>10</sub> concentrations within the Phoenix Metro area (11 sites were used). This equates to a 25% decrease in PM<sub>10</sub> concentrations over the 10 year period.



*Using the Annual Average as the indicator:*

2000 – 2009 → over the last 10 years, there has been a 12 µg/m<sup>3</sup> decrease in PM<sub>10</sub> concentrations within the Phoenix Metro area (11 sites were used). This equates to a 25% decrease in PM<sub>10</sub> concentrations over the 10 year period.

PM<sub>10</sub> for Phoenix Metro: Area Annual Averages 2000-2009



## LIST OF DOCUMENTS

DATE	TITLE
09/16/08	Letter to Deborah Jordan, EPA, from Nancy Wrona, ADEQ, regarding submittal of Final Demonstrations of Exceptional/Natural Events in Arizona, 2007 and Request for Concurrence with attached notebook entitled "Exceptional/Natural Events in the State of Arizona, 2007, Public Comment Aug 11 – Sep 10, 2008 with enclosed
	- Table 1, Arizona Air Quality Final Demonstrations for Flagstaff Exceptional Events (2007)
	- Public Notice, Arizona Department of Environmental Quality Request for Public Comments on Natural or Exceptional Events in Arizona
	- Index of 2007 Exceptional Events Demonstrations, Public Comment, 08/11/08 – 09/10/08
	- Figure 1, Key Data for Event of November 29, 2006
	- Assessment of November 29, 2006 Event
	- ADEQ Yuma and Vicinity Dust Control Action Forecast issued Tuesday, November 28, 2006
	- U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, NAF (23199), El Centro, CA (11/2006)
	- U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (11/2006)
	- U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Yuma Marine Corps Air Station/Yuma International Airport (23195), Yuma, AZ (11/2006)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Yuma Area on February 15, 2006 with attached ADEQ Maricopa County Dust Control Action Forecast issued on Monday, February 13, 2006; U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (02/2006); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Yuma Marine Corps Air Station/Yuma International Airport (23195), Yuma, AZ (02/2006); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, NAF (23199), El Centro, CA (02/2006)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Yuma Area on May 21, 2006 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (05/2006); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Palm Springs International Airport (93138), Palm Springs, CA (05/2006); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Yuma Marine Corps Air Station/Yuma International Airport (23195), Yuma, AZ (05/2006)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events

**LIST OF DOCUMENTS**

<b>DATE</b>	<b>TITLE</b>
	<p>in the Yuma Area on November 29, 2006</p> <ul style="list-style-type: none"> <li>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub> and PM<sub>2.5</sub>) Concentration Events in the Nogales, Arizona Area on January 1, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (12/2006); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (01/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m3) for 12/31/06 and 01/01/07</li> <li>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on January 5, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Thursday, January 4, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, NAF(23199), El Centro, CA (01/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (01/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (01/2007)</li> </ul>
09/16/09 Con't	<ul style="list-style-type: none"> <li>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Nogales, Arizona Area on February 6, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (02/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m3) for 02/06/07</li> </ul>
	<ul style="list-style-type: none"> <li>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on February 19, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Sunday, February 18, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, NAF(23199), El Centro, CA (02/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (02/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (02/2007); NOAA HYSPLIT Model, Forward Trajectory Starting at 03 UTC 19 Feb 07, EDAS Meteorological Data</li> </ul>
	<ul style="list-style-type: none"> <li>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on February 27, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Monday, February 26, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, NAF(23199), El Centro, CA (02/2007); U.S. Department of</li> </ul>

## LIST OF DOCUMENTS

DATE	TITLE
	Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (02/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Yuma MCAS (01345), Yuma, AZ (02/2007); NOAA HYSPLIT Model, Forward Trajectory Starting at 22 UTC 27 Feb 07, EDAS Meteorological Data
09/16/09 Con't	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on March 6, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (03/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m <sup>3</sup> ) for 03/06/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on March 15, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (03/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m <sup>3</sup> ) for 03/15/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Yuma Area on April 11, 2007 and Statewide on April 12, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Wednesday, April 11, 2007; ADEQ Maricopa County Dust Control Action Forecast issued Wednesday, April 11, 2007; ADEQ Green Valley and Vicinity Re-Entrainment Risk Wind Forecast issued on Wednesday, April 11, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (04/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (04/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, NAF(23199), El Centro, CA (04/2007)

## LIST OF DOCUMENTS

DATE	TITLE
	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on May 4, 2007 with attached ADEQ Maricopa County Dust Control Action Forecast issued on Thursday, May 3, 2007; ADEQ Air Quality Forecast for Thursday, May 3, 2007; Local Air Pollutants in Detail; ADEQ Yuma and Vicinity Dust Control Action Forecast issued Thursday, May 3, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, NAF(23199), El Centro, CA (05/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (05/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (05/2007)</p>
09/16/09 Con't	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on May 21, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Sunday, May 20, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (05/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Blythe Airport (23158), Blythe, CA (05/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (05/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, NAF(23199), El Centro, CA (05/2007)</p>
	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on June 5, 2007 and Statewide on June 6, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Monday, June 4, 2007; ADEQ Maricopa County Dust Control Action Forecast issued on Monday, June 4, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (06/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, NAF(23199), El Centro, CA (06/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (06/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Williams Gateway Airport (23104), Phoenix, AZ (06/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Casa Grande Municipal Airport (03914), Casa Grande, AZ (06/2007)</p>
09/16/09 Con't	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Rillito Area on July 5, 2007 with attached ADEQ Green Valley and Vicinity Dust Re-Entrainment Risk Wind Forecast issued Wednesday, July 4, 2007; ADEQ</p>

**LIST OF DOCUMENTS**

<b>DATE</b>	<b>TITLE</b>
	<p>Maricopa County Dust Control Action Forecast issued Monday, July 4, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Tucson International Airport (23160), Tucson, AZ (07/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Davis-Monthan AFB Airport (23109), Tucson, AZ (07/2007)</p> <p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on July 8, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Monday, July 6, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (07/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, NAF(23199), El Centro, CA (07/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (07/2007)</p> <p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Phoenix Area on July 19, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Williams Gateway Airport (23104), Phoenix, AZ (07/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Phoenix Deer Valley Airport (03184), Phoenix, AZ (07/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Phoenix Sky Harbor International Airport (23183), Phoenix, AZ (07/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Scottsdale Airport (03192), Scottsdale, AZ (07/2007)</p>
09/16/09 Con't	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Phoenix Area on August 13, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Williams Gateway Airport (23104), Phoenix, AZ (08/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Phoenix Deer Valley Airport (03184), Phoenix, AZ (08/2007)</p> <p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Phoenix Area on August 16, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Chandler Municipal Airport (53128), Chandler, AZ (08/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Williams Gateway Airport (23104), Phoenix, AZ (08/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Phoenix Sky Harbor International Airport</p>

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DATE	TITLE
	(23183), Phoenix, AZ (08/2007)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on August 23, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Phoenix Sky Harbor International Airport (23183), Phoenix, AZ (08/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Williams Gateway Airport (23104), Phoenix, AZ (08/2007)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Yuma Area on August 31, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Thursday, August 30, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (08/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, NAF(23199), El Centro, CA (08/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (08/2007)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Yuma Area on October 5, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Thursday, October 4, 2007; U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, NAF(23199), El Centro, CA (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Imperial County Airport (03144), Imperial, CA (10/2007)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on October 19, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (10/2007); ADEQ Air Quality Division PM <sub>10</sub> BAM.STD Daily Concentration Report (ug/m <sup>3</sup> ) for 10/19/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Yuma and Phoenix Areas on October 21, 2007 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Friday, October 19, 2007; ADEQ Maricopa County Dust Control Action Forecast issued on Friday, October 19, 2007; ADEQ Air Pollution Health Watch Issuance Notice; U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Yuma MCAS (03145), Yuma, AZ (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly

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DATE	TITLE
	<p>Observations Table, Phoenix Goodyear Airport (03186), Goodyear, AZ (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Casa Grande Municipal Airport (03914), Casa Grande, AZ (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Casa Grande Municipal Airport (03914), Casa Grande, AZ (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Luke AFB Airport (23111), Glendale, AZ (10/2007)</p>
	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Phoenix Areas on October 24, 2007 with attached ADEQ Air Pollution Health Watch Issuance Notice; U.S. Department of Commerce Quality Controlled Local Climatological Data (may be updated), Hourly Observations Table, Phoenix Sky Harbor International Airport (23183), Phoenix, AZ (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Falcon Field Airport (03185), Mesa, AZ (10/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Williams Gateway Airport (23104), Phoenix, AZ (10/2007); ADEQ Air Quality Division PM<sub>10</sub>.TEOM Daily Concentration Report (ug/m<sup>3</sup>) for 10/24/07</p>
	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Nogales, Arizona Area on October 27, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (10/2007); ADEQ Air Quality Division PM<sub>10</sub>BAM.STD Daily Concentration Report (ug/m<sup>3</sup>) for 10/27/07</p>
	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Nogales, Arizona Area on November 2, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (11/2007); ADEQ Air Quality Division PM<sub>10</sub>BAM.STD Daily Concentration Report (ug/m<sup>3</sup>) for 11/02/07</p>
	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Nogales, Arizona Area on November 3, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (11/2007); ADEQ Air Quality Division PM<sub>10</sub>BAM.STD Daily Concentration Report (ug/m<sup>3</sup>) for 11/03/07</p>
09/16/09 Con't	<p>- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Nogales, Arizona Area on November 4, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly</p>

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DATE	TITLE
	Observations Table, Nogales International Airport (03196), Nogales, AZ (11/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m3) for 11/04/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on November 6, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (11/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m3) for 11/06/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on November 15, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Goodyear Airport (03186), Goodyear, AZ (11/2007); U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Phoenix Sky Harbor International Airport (23183), Phoenix, AZ (11/2007)
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on November 18, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (11/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m3) for 11/18/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on November 19, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (11/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m3) for 11/19/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on November 28 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (11/2007); ADEQ Air Quality Division PM10BAM.STD Daily Concentration Report (ug/m3) for 11/28/07
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> and PM <sub>2.5</sub> ) Concentration Events in the Nogales, Arizona Area on December 24, 2007 with attached U.S. Department of Commerce Quality Controlled Local Climatological Data (final), Hourly Observations Table, Nogales International Airport (03196), Nogales, AZ (12/2007); ADEQ Air Quality Division PM10BAM.STD Daily

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DATE	TITLE
	Concentration Report (ug/m3) for 12/24/07 (289 pages)
06/30/09	Letter to Deborah Jordan, EPA, from Nancy Wrona, ADEQ, regarding Submittal of Preliminary Documentation of Exceptional/Natural Events in Arizona 2008 and Request for Concurrence (4 pages)
06/30/09	Notebook as referenced in 06/30/09 letter entitled "Preliminary Documentation for 2008 Exceptional Events" with enclosed <ul style="list-style-type: none"> <li>- Index of 2008 Exceptional Events Preliminary Documentation, Public Comment Period, TBA</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub> and PM<sub>2.5</sub>) Concentration Events in the Nogales, Arizona Area on January 1, 2008</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub> and PM<sub>2.5</sub>) Concentration Events in the Nogales, Arizona Area on January 26, 2008</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Nogales, Arizona Area on February 27, 2008</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Nogales, Arizona Area on March 2, 2008</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Buckeye Area on March 2, 2008 with attached ADEQ Air Quality Forecast for Saturday, March 1, 2008; ADEQ Maricopa County Dust Control Action Forecast issued Friday, February 29, 2008</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Yuma Area on March 2, 2008 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued on Friday, February 29, 2008; ADEQ Air Quality Forecast for Saturday, March 1, 2008</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM<sub>10</sub>) Concentration Events in the Phoenix Area on March 14, 2008 with attached Chapter 4: Overview of PM<sub>10</sub> Control Measures; ADEQ Air Quality Forecast for Friday, March 14, 2008; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued on Thursday, March 13, 2008</li> <li>- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High</li> </ul>

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DATE	TITLE
	Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on April 16, 2008 with attached Chapter 4: Overview of PM <sub>10</sub> Control Measures; ADEQ Air Quality Forecast for Wednesday, April 16, 2008; ADEQ Maricopa County Dust Control Action Forecast issued on Tuesday, April 15, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on April 30, 2008 with attached Chapter 4: Overview of PM <sub>10</sub> Control Measures; ADEQ Air Quality Forecast for Wednesday, April 30, 2008; ADEQ Maricopa County Dust Control Action Forecast issued on Tuesday, April 29, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Paul Spur Area on May 12, 2008 with attached ADEQ Air Quality Forecast for Monday, May 12, 2008; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Green Valley and Vicinity Dust Control Re-Entrainment Risk Wind Forecast issued on Sunday, May 11, 2008; ADEQ Maricopa County Dust Control Action Forecast issued, Sunday, May 11, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on May 18, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on May 21, 2008 with attached ADEQ Air Quality Forecast for Wednesday, May 21, 2008; ADEQ Yuma and Vicinity Dust Control Action Forecast issued on Tuesday, May 20, 2008; Chapter 4: Overview of PM <sub>10</sub> Control Measures; Local Air Pollutants in Detail; ADEQ Maricopa County Dust Control Action Forecast issued on Tuesday, May 20, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on May 22, 2008 with attached ADEQ Maricopa County Dust Control Action Forecast issued on Wednesday, May 21, 2008; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Green Valley and Vicinity Dust Control Re-Entrainment Risk Wind Forecast issued on Wednesday, May 21, 2008; ADEQ Yuma and Vicinity Dust Control Action Forecast issued, Wednesday, May 21, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on June 4, 2008 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued on Tuesday, June 3, 2008; ADEQ Maricopa County Dust Control Action Forecast issued on Tuesday, June 2, 2008 (NOTE day of week appears to be incorrect on one of these entries); ADEQ Air Pollution Health Watch Issuance Notice

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<b>DATE</b>	<b>TITLE</b>
06/30/09 Con't	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Buckeye Area on July 1, 2008 with attached ADEQ Air Quality Forecast for Tuesday, July 1, 2008; Local Air Pollutants in Detail; ADEQ Maricopa County Dust Control Action Forecast issued on Monday, June 30, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Buckeye Area on July 4, 2008 with attached ADEQ Maricopa County Dust Control Action Forecast issued on Thursday, July 3, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on October 11, 2008 with attached ADEQ Maricopa County Dust Control Action Forecast issued on Tuesday, October 10, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on October 22, 2008 with attached ADEQ Maricopa County Dust Control Action Forecast issued on Tuesday, October 21, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on October 26, 2008
06/30/09 Con't	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Pima County Area on October 27, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Nogales, Arizona Area on October 31, 2008 and November 1, 2008
	- Description of High Particulate (PM <sub>10</sub> ) Concentration Event in the Durango Complex Vicinity on November 7, 2008 with attached Maricopa County, Air Quality Division, Dust Control Division, Photo Attachment Page, 11/14/08; ADEQ Air Quality Forecast for Friday, November 7, 2008; ADEQ Maricopa County Dust Control Action Forecast issued Thursday, November 6, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate Concentration Event in the Nogales, Arizona Area on November 8, 2008 with attached ADEQ Yuma and Vicinity Dust Control Action Forecast issued Friday, November 7, 2008; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued Friday, November 7, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for

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DATE	TITLE
	Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on November 9, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate Concentration Event in the Nogales, Arizona Area on November 16, 2008 and November 17, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate Concentration Event in the Nogales, Arizona Area on November 20, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate Concentration Event in the Nogales, Arizona Area on November 22, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate Concentration Event in the Nogales, Arizona Area on December 20, 2008
	- Preliminary Documentation, ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> and PM <sub>2.5</sub> ) Concentration Events in the Nogales, Arizona Area on December 31, 2008 and January 1, 2009 (211 pages)
09.11/09	Letter to Gina McCarthy, EPA, from Martin Bauer, Western States Air Resources Council (WESTAR), regarding Recommendations to Improve Implementation of the Exceptional Events Rule with enclosed -
	- Recommended Actions to Improve Implementation of 40 CFR Parts 50 and 51 Related to Treatment of Data Influenced by Exceptional Events (10 pages)
11/17/09	Letter to Deborah Jordan, EPA, from Nancy Wrona, ADEQ, regarding Submittal of Final Demonstrations of the 2008 Greater Phoenix Area Exceptional/Natural Events and Request for Concurrence with enclosed -
	- ADEQ The Impact of Exceptional Events 'Unusual Winds' on PM <sub>10</sub> Concentrations in Arizona, Air Quality Division, October 15, 2009
	- ADEQ High Wind Exceptional Events And Control Measures for PM <sub>10</sub> Areas, Air Quality Division, October 13, 2009 (33 pages)
11/17/09	Notebook referenced in 11/17/09 letter entitled "Exceptional/Natural Events in the Greater Phoenix Area 2008, Public Comment Period Oct 15 – Nov 13, 2009 with enclosed –
	- Index of 2008 Greater Phoenix Area Exceptional Events Demonstrations Public Comment Period, October 15 – November 13, 2009
	- Affidavit of Publication dated 10/15/09
	- Two page Spreadsheet from 03/02/08 to 11/09/08 – Definition of "High Wind" as a "Natural Event" as described in 40 CFR 50.1(k) and Preamble section IV(E)(5)(a)
	- ADEQ Assessment of Qualification for Treatment under the Arizona

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DATE	TITLE
	Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Buckeye Area on March 2, 2008 with attached ADEQ Air Quality Forecast for Saturday, March 1, 2008; ADEQ Maricopa County Dust Control Action Forecast issued Friday, February 29, 2008; ADEQ Yuma and Vicinity Dust Control Action Forecast issued Friday, February 29, 2008
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on March 14, 2008 with attached ADEQ Air Quality Forecast for Friday, March 14, 2008; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued Thursday, March 13, 2008; Chapter 4: Overview of PM <sub>10</sub> Control Measures
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on April 16, 2008 with attached ADEQ Air Quality Forecast for Tuesday, April 15, 2008; Local Air Pollutants in Detail; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued Monday, April 14, 2008; ADEQ Air Quality Forecast for Wednesday, April 16, 2008; ADEQ Maricopa County Dust Control Action Forecast issued Tuesday, April 15, 2008; Chapter 4: Overview of PM <sub>10</sub> Control Measures
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on April 30, 2008 with attached ADEQ Air Quality Forecast for Wednesday, April 30, 2008; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued Tuesday, April 29, 2008; Chapter 4: Overview of PM <sub>10</sub> Control Measures
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on May 21, 2008 with attached ADEQ Air Quality Forecast for Wednesday, May 21, 2008; Local Air Pollutants in Detail; ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued Tuesday, May 20, 2008; ADEQ Yuma and Vicinity Dust Control Action Forecast issued Tuesday, May 20, 2008; Chapter 4: Overview of PM <sub>10</sub> Control Measures
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on June 4, 2008 with attached ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued Tuesday, June 2, 2008; ADEQ Yuma and Vicinity Dust Control Action Forecast issued Tuesday, June 3, 2008 (NOTE day of week appears to be incorrect on one of these entries); PM <sub>10</sub> Control Measures Reporting Form High Wind Exceptional Event Demonstration, June 4, 2008
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Buckeye Area on July 1, 2008 with attached ADEQ Air Quality Forecast for Tuesday, July 1, 2008; Local Air Pollutants in Detail; ADEQ Maricopa

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DATE	TITLE
	County Dust Control Action Forecast issued Monday, June 30, 2008 - ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Buckeye Area on July 4, 2008 with attached ADEQ Maricopa County Dust Control Action Forecast issued Thursday, July 3, 2008
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on October 11, 2008 with attached ADEQ Maricopa County Dust Control Action Forecast issued Friday, October 10, 2008
	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix Area on October 22, 2008 with attached ADEQ Maricopa County Dust Control Action Forecast issued Tuesday, October 21, 2008
	- Description of the High Particulate (PM <sub>10</sub> ) Concentration Event in the Durango Complex Vicinity on November 7, 2008 with attached ADEQ Air Quality Forecast for Friday, November 7, 2008; ADEQ Maricopa County Dust Control Action Forecast issued Thursday, November 6, 2008; Maricopa County, Air Quality Division, Dust Control Division, Photo Attachment Page, 11/14/08
11/17/09 Con't	- ADEQ Assessment of Qualification for Treatment under the Arizona Natural and Exceptional Events Policy for the High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on November 9, 2008 with attached ADEQ Air Pollution Health Watch Issuance Notice; ADEQ Maricopa County Dust Control Action Forecast issued Friday, November 7, 2008; ADEQ Yuma and Vicinity Dust Control Action Forecast issued Friday, November 7, 2008
	- ADEQ High Wind Exceptional Events and Control Measures for PM <sub>10</sub> Areas, Air Quality Division, October 13, 2009
	- ADEQ The Impact of Exceptional Events 'Unusual Winds' on PM <sub>10</sub> Concentrations in Arizona, Air Quality Division, October 14, 2009 (209 pages)
03/08/10	Letter to Martin Bauer, Western States Air Resources Council (WESTAR), from Gina McCarthy, EPA, regarding response to 09/11/09 letter providing recommendations of WESTAR's "Exceptional Event Rules" (2 pages)
07/20/10	E-mail from Ira M. Domsy to Roger Ferland with cc's to Eric Massey, Shawn B. Kendall and <a href="mailto:james.skardon@azag.gov">james.skardon@azag.gov</a> attaching ADEQ's Draft Supplemental Report, Assessment of Qualification for Treatment Under the Federal Exceptional Events Rule: High Particulate (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on June 4, 2008, Air Quality Division dated March 17, 2010 and sent to the EPA by ADEQ on March 17, 2010 (37 pages)
05/21/10	Letter from Jared Blumenfeld, EPA, to Benjamin H. Grumbles, ADEQ, regarding PM <sub>10</sub> Natural Ambient Air Quality Standard in Phoenix Request for Concurrence for Treatment as "Exceptional Events" with enclosed Review of Exceptional Event Request (ADEQ File Folder tab noted "May 21, 2010 Letter from EPA to ADEQ Non-Concurrence) with enclosed -

## LIST OF DOCUMENTS

DATE	TITLE
	- Review of Exceptional Event Request, Maricopa County, AZ, 24-Hour PM <sub>10</sub> , March 14, 2008, April 30, 2008, May 21, 2008, June 4, 2008, U.S. Environmental Protection Agency Region 9, May 12, 2010 (48 pages)
06/30/10	Letter from Benjamin H. Grumbles, ADEQ, to Jared Blumenfeld, EPA, regarding response to concerns raised in 05/21/10 letter and at the 05/25/10 meeting with attached Section by Section Response to Review of Exceptional Events Request, Maricopa County, AZ 24-Hour PM <sub>10</sub> , March 14, 2008, April 30, 2008, May 21, 2008, June 4, 2008 U.S. Environmental Protection Agency Region 9, May 12, 2010, prepared by ADEQ June 17, 2010 (108 pages)
07.02/10	Letter from Benjamin H. Grumbles, ADEQ, to Jared Blumenfeld, EPA, regarding transmittal of comments prepared by Maricopa County Association of Governments (MAG) with attached MAG Responses to EPA's Review of Exceptional Event Request, Maricopa County, AZ, May 12, 2010 (30 pages)
07/06/10	Letter from Dave Klemp, WESTAR, to Gina McCarthy, EPA, regarding response to 09/11/09 letter (ADEQ File Folder tab noted "July 6, 2010 WESTAR letter to EPA") (2 pages)
08/02/10	08/02/10 Letter from Benjamin H. Grumbles, ADEQ, to Jared Blumenfeld, EPA, transmitting a revised draft report raised by ADEQ on 06/04/08 (2 pages)
	Spiral bound report entitled "ADEQ Assessment of Qualification for Treatment under the Federal Exceptional Events Rule: High Particulate (PM <sub>10</sub> ) Concentration Events in Phoenix and Yuma Areas on June 4, 2008, Air Quality Division, July 30, 2010 (412 pages)
08/02/10	Letter from Benjamin H. Grumbles, ADEQ, to Lisa Jackson, EPA, providing comments on the proposed Consent Decree (EPA-HQ-OGC-2010-0428) with attached July 6, 2010 WESTAR letter; March 17, 2010 ADEQ draft Supplemental Report; June 30, 2010 ADEQ Response to EPA May 21, 2010 letter with its own enclosure; July 2, 2010 ADEQ transmission of MAG comments; August 2, 2010 ADEQ transmission of letter and Supplemental Report for June 4, 2008 event (letter references attachments although unable to locate attachments behind letter) (4 pages)
08/24/10	Letter from Jared Blumenfeld, EPA, to Benjamin H. Grumbles, AQEQ, regarding recent communications about exceptional events dated June 30, July 2 and August 2 as well as 08/02/10 comments on proposed consent decree (1 page)
08/27/10	Letter from Benjamin H. Grumbles, ADEQ, to Jared Blumenfeld, EPA, continuing correspondence dated 08/02/10 and attaching newly-updated revised draft June 4, 2008 report (8 pages) with enclosed –  - Summary of Changes Made to Assessment of Qualification for Treatment under the Federal Exceptional Events Rule: High Particulate Matter (PM <sub>10</sub> ) Concentration Events in the Phoenix and Yuma Areas on June 4, 2008 (dated July 30, 2010)

**LIST OF DOCUMENTS**

<b>DATE</b>	<b>TITLE</b>
	<p>- Exceptional Event Information Needed to Determine The Contribution of Anthropogenic Activities</p> <p>- August 16, 2010 Assessment of Qualification for Treatment under the Federal Exception Events Rule: High Particulate (PM<sub>10</sub>) Concentration Event in the Phoenix Area on March 14, 2008 (346 pages)</p> <p>- August 16, 2010 Assessment of Qualification for Treatment under the Federal Exception Events Rule: High Particulate (PM<sub>10</sub>) Concentration Event in the Phoenix Area on April 30, 2008 (360 pages)</p> <p>- August 16, 2010 Assessment of Qualification for Treatment under the Federal Exception Events Rule: High Particulate (PM<sub>10</sub>) Concentration Event in the Phoenix Area on May 21, 2008 (382 pages)</p> <p>- August 16, 2010 Assessment of Qualification for Treatment under the Federal Exception Events Rule: High Particulate (PM<sub>10</sub>) Concentration Event in the Phoenix Area on June 4, 2008 (408 pages)</p>
09/01/10	<p>Letter from Benjamin H. Grumbles, ADEQ, and Dennis Smith, MAG, to Honorable Lisa Jackson, EPA, regarding EPA Policy regarding Implementation of the Exceptional Events Rule (8 pages)</p>



Janice K. Brewer  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • www.azdeq.gov



Benjamin H. Grumbles  
Director

October 18, 2010

## VIA U.S. Mail and Electronic Mail

Mr. Jared Blumenfeld  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Re: Submittal of Final Demonstrations for March 14, 2008, April 30, 2008, May 21, 2008,  
and June 4, 2008 Exceptional/Natural Events Analyses for the Greater Phoenix Area and  
Yuma; Comments on Pocket Number EPA-R09-OAR-2010-0715

Dear Regional Administrator *Jared* Blumenfeld:

This letter continues my correspondence of August 2, and 27, 2010, which transmitted to you revised draft reports for PM<sub>10</sub> exceedances that occurred in Phoenix and Yuma in 2008. These draft reports addressed issues that EPA had identified in the Arizona Department of Environmental Quality's (ADEQ's) documentation of PM<sub>10</sub> exceedance that occurred on March 14, 2008, April 30, 2008, May 21, 2008, and June 4, 2008. As previously stated, ADEQ maintains that the November 17, 2009 reports for all four of these 2008 events were complete at the time that they were submitted. EPA's May 21, 2010 letter indicated the need for additional consultation about the four dates in question.

Pursuant to EPA's Exceptional Event Rule (40 CFR 50.14(c)(3)(i) and ADEQ Policy 2009.001, ADEQ requested public comments on these four draft reports. ADEQ made copies of the demonstrations available for a 30-day public comment period beginning August 30, 2010 and ending September 30, 2010. No comments were received from the public during the comment period. Enclosure 2 contains a copy of the affidavit of publication of the public notice of the 30-day comment period.

Also enclosed with this letter are final copies of the reports including ADEQ's analyses of the exceptional events that occurred on March 14, April 30, May 21, and June 4, 2008 (see Enclosures 3 thru 6). Enclosure 7 is a compact disc containing an electronic copy of these analyses, along with a copy of this letter and Enclosure 2.

Northern Regional Office  
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001  
(928) 779-0313

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

Mr. Jared Blumenfeld  
October 18, 2010  
Page 2 of 2

The circumstances under which this letter is being submitted are considerably different than those under which my August 2010 letters were written. On September 9, 2010, EPA published the proposed partial approval and partial disapproval of the *MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area* in the Federal Register. At that same time, EPA requested public comments on this proposed action. Because our attempts to rekindle the consultation process on these four exceptional events have been unsuccessful, I am submitting these final reports as comments on Docket number EPA-R09-OAR-2010-0715.

If your staff has questions or would like to discuss this further, please have them contact Eric Massey, Air Quality Division Director, who can be reached at (602) 771-2308.

Sincerely,



Benjamin H. Grumbles  
Director

Enclosures (7)

1. Index of Exceptional Events
2. Affidavit of Publication in Arizona Republic Newspaper
3. Assessment of Qualification for Treatment under the Federal Exceptional Events Rule: High Particulate (PM<sub>10</sub>) Concentration Event in the Phoenix Area on March 14, 2008
4. Assessment of Qualification for Treatment under the Federal Exceptional Events Rule: High Particulate (PM<sub>10</sub>) Concentration Event in the Phoenix Area on April 30, 2008
5. Assessment of Qualification for Treatment under the Federal Exceptional Events Rule: High Particulate (PM<sub>10</sub>) Concentration Events in the Phoenix and Yuma Areas on May 21, 2008
6. Assessment of Qualification for Treatment under the Federal Exceptional Events Rule: High Particulate (PM<sub>10</sub>) Concentration Events in the Phoenix and Yuma Areas on June 4, 2008
7. Compact Disc containing Enclosures 1 thru 6

Cc: Colleen McKaughan, USEPA, Region IX (with Enclosure 7 only)  
Bill Wiley, MCAQD (with Enclosure 7 only)  
✓ Dennis Smith, MAG (with Enclosure 7 only)



Janice K. Brewer  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • www.azdeq.gov



Benjamin H. Grumbles  
Director

October 20, 2010

## VIA U.S. MAIL AND ELECTRONIC MAIL

Docket Number EPA-R09-OAR-2010-0715  
EPA Docket Center  
Environmental Protection Agency, Mailcode 2822T  
1200 Pennsylvania Ave, N.W.  
Washington, DC 20460-001

Re: Comments on Docket ID Number EPA-R09-OAR-2010-0715: Proposed Partial Approval  
Partial Disapproval of the Maricopa Area 5% Plan

### To Whom It May Concern:

The Arizona Department of Environmental Quality (ADEQ) provides the following comments on the proposed partial approval and partial disapproval of the Maricopa Area 5% plan in Docket ID Number EPA-R09-OAR-2010-0715. This proposed action would partially approve portions of the "MAG 2007 Five Percent Plan for PM-10 for the Maricopa County Nonattainment Area" (the 5% Plan) developed by the Maricopa Association of Governments in 2007, and submitted by the State of Arizona to EPA as a revision to the State Implementation Plan (SIP) for the Maricopa County serious PM-10 non-attainment area.

In July 2000, ADEQ submitted Arizona Administrative Code Title 18, Chapter 2, Article 6 Sections 610 and 611 (A.A.C. R18-2-610 and -611) to EPA along with a demonstration that the Agricultural Best Management Practices (Ag BMP) program met all of the Clean Air Act's requirements. In October 2001 and July 2002 EPA approved these rules as Best Available Control Measures (BACM) for agricultural practices within the Maricopa County serious PM-10 non-attainment area. In 2007, the Arizona Legislature passed Senate Bill 1552 which amended the statute (A.R.S. § 49-457) that authorized the Ag BMP program, increasing the number of control measures required by the Program, and also expanded the program's applicability to agricultural activities within the Maricopa County serious PM-10 non-attainment area.

EPA's proposed action would partially approve the 2007 amendments to A.R.S. § 49-457 which strengthen the Ag BMP program and the SIP. ADEQ supports this finding. At the same time, however, EPA's proposed action would disapprove A.A.C. R18-2-610 and -611 because, according to EPA, the definitions within the rules are too broad, and because there is no mechanism in the rule to ensure that the emission reduction measures are achieving the required levels of control. Although ADEQ disagrees that the definitions are too broad, we will continue working with EPA and the Governor's Ag BMP Committee to provide additional specificity.

Northern Regional Office  
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001  
(928) 779-0313

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

ADEQ has signed a joint comment letter to Administrator Jackson along with the Maricopa Association of Governments (MAG) and the Maricopa County Air Quality Department (MCAQD). This letter identifies the fact that many of the days that exceeded the national air quality standard for PM-10 have been flagged as exceptional events that have overwhelmed the best available and most stringent control measures that have been required within the area. ADEQ's position regarding the documentation for the four days in 2008 with which EPA has not concurred is well documented. It is important to note, however, that on October 19, 2010, ADEQ sent the final documentation regarding the March 14, April 30, May 21, and June 4, 2008 events to EPA Regional Administrator Jared Blumenfeld. These final documents successfully completed the public notice process required by the Exceptional Events Rule, and are incorporated by reference into this letter.

The efforts of ADEQ, MAG, MCAQD and the many stakeholders implementing the 5% Plan have successfully reduced the impacts of air pollution in Maricopa County. ADEQ believes that the 5% Plan, including measures such as the Agricultural Best Management Practices program, has been successfully implemented in Maricopa County, and that the controls required by that plan have resulted in many positive benefits to public health. We also recognize, however, that there are opportunities to improve and ADEQ is committed to making such improvements to the 5% Plan. If you have any questions, please contact Eric Massey, the Director of the Air Quality Division, at (602) 771-2308.

Sincerely,



Benjamin H. Grumbles  
Director

cc: Gregory Nudd, EPA  
Dennis Smith, Maricopa Association of Governments  
William Wiley, Maricopa County Air Quality Department



**Maricopa County**  
Air Quality Department

Office of the Director  
William D. Wiley  
Director  
1001 North Central Avenue  
Suite #500  
Phoenix, Arizona 85004  
602-508-6443 - desk  
602-572-6440 - fax

October 20, 2010

**Via Email: [nudd.gregory@epa.gov](mailto:nudd.gregory@epa.gov)**  
Gregory Nudd (Air-2)  
U.S. Environmental Protection Agency Region IX  
75 Hawthorn Street  
San Francisco, CA 94105-3901

Subject: Docket ID No. EPA-R09-OAR-2010-0715

**Re: Maricopa County (Phoenix) PM-10 Nonattainment Area; Serious Area Plan for Attainment of the 24-hour PM-10 Standard; Clean Air Act Section 189 (d)**

Dear Mr. Nudd:

The Maricopa County Air Quality Department (MCAQD) offers the following comments regarding the proposed rule published in the federal register on September 9, 2010 (75 FR 54806). In that notice, the U.S. Environmental Protection Agency (EPA) proposes to approve in part and disapprove in part State Implementation Plan (SIP) revisions submitted to meet the Clean Air Act (CAA) Section 189(d) requirements applicable to the serious Maricopa County (Phoenix) nonattainment area.

MCAQD's first priority is protection of the health of our citizens. We believe the 2007 5% Plan submittal was an aggressive approach to improve air quality for the health of our citizens and that it is working. We also acknowledge there are always opportunities to improve air quality and we reiterate our willingness to work with EPA in a collaborative process. We urge EPA to consider the significant impacts of its decision on this plan given these difficult economic times. In this vein, we also encourage EPA to exercise its discretion and ensure that any conformity "freeze" that might occur begin at least 90 days after the effective date of the final action.

MCAQD supports EPA's approval of the various provisions of state statute relating to the control of PM-10 emissions in Maricopa County. However, we believe that several aspects of the proposed disapproval are flawed. Our primary concerns with the proposed action are enumerated below.

1. EPA's disapproval of the Emissions Inventory in the 5% Plan is unsupported by EPA's own guidance on inventories and on rule effectiveness (RE).
  - A. The methodology used by MCAQD does not conflict with any current or previous RE guidance published by EPA.

The methodology used by MCAQD in the 2005 Periodic Emissions Inventory (PEI) applied the principles of EPA's current and previous guidance documents in developing the RE studies. It is important to note that EPA does not find that the RE methodology used in the

2005 Periodic Emissions Inventory (PEI) conflicts with, or runs contrary to guidance on the development of RE studies. The disapproval only states a preference for a newer methodology than that used in the 2005 PEI. EPA guidance on RE studies focuses on broad principles and does not include prescriptive methodologies. As an illustration of this point, EPA states within the current RE guidance that the older guidance upon which MCAQD relied on in crafting the RE study in the 2005 Periodic Inventory can be helpful in calculating emission reductions.<sup>1</sup> EPA also recognizes within the current RE guidance that the development of RE studies is a difficult task due to availability of data and the agency resources. Also note that, at the time our RE study was developed (and even currently), there has been no other agency that has produced an RE study for EPA that focuses on PM-10 from fugitive dust sources beyond a generic assignment of 80% as recommended by older EPA guidance. EPA acknowledges this difficulty in its most recent guidance, as stated below.

*It is unlikely that all state and local agencies will be able to collect sufficient information from all of their stationary sources from which refined RE adjustments can be made. Additionally, no suitable matching studies may exist from which a rule effectiveness value can be obtained. In such situations, the selection of an RE value becomes subjective.<sup>2</sup>*

A number of factors affect both methodologies and may impact an agency's ability to develop a refined RE adjustment. EPA described its concerns with the RE study in the 2005 PEI in the disapproval notice, so we provide the following comments on EPA's observations.

In developing the RE study in the 2005 PEI, MCAQD developed a protocol that sought to minimize the inherent subjectivity of RE studies noted by EPA above. In many ways, the RE study developed for the 2005 PEI is superior to simply looking at a database of inspection records by providing more detailed information than basic records of inspections can provide. This study utilized inspection personnel at each of the 63 visits, both an inspector and a supervising inspector, to ensure that the observations regarding violations of the rule by MCAQD staff were quality assured and accurate. Each site had a full-scale Level 2 inspection to determine compliance with every applicable rule subsection. This level of quality assurance does not exist when simply reviewing a database of inspection records, where a significant portion of the database reflects results from less comprehensive partial or Level 1 inspections. Level 1 inspections are commonly done as spot inspections for violation follow-up, complaint inspections or are drive-by visual inspection of the site. The follow-up inspections in particular have a higher compliance rate as the site is already aware an inspector will return to determine the compliance status of any previously identified deficiencies. Thus compliance levels would be higher when compared to the intensive inspections process used at our 63 sampled sites that we used in our 2005 inventory.

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<sup>1</sup> Page B-5 of current guidance ("Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations," EPA-454/R-05-001, November 2005) states, "How can I calculate SIP credit for emission reductions achieved via improvements to rule effectiveness? Such credit will need to be determined on a case by case basis. EPA's older guidance may be used as a point of reference, but pursuant to EPA guidance, "Ozone Nonattainment Planning: Decentralization of Rule Effectiveness Policy; April 27, 1995", other approaches may be used."

<sup>2</sup> "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations," EPA-454/R-05-001, November 2005

Another factor which needs to be considered is the effect of meteorology on the compliance inspection rate in the overall database. While the region's meteorology affects all fugitive dust sources, its impact is most significant for vacant lots and other unpermitted, unpaved sources of fugitive dust. Our field studies, which we used in the 2005 inventory, took place during periods of the year when Maricopa County ambient monitors typically record exceedances of the 24-hour PM-10 standard. MCAQD believes that compliance rates during the periods when exceedances are most likely to be recorded provide an appropriate, conservative estimate of rule effectiveness.

In conclusion, both the methodology used by MCAQD and that proposed by EPA in its disapproval may be affected by factors that impact the validity of the results. We believe the choice between them is not as clear cut as outlined in EPA's comments. Based on our analysis, we believe the RE study developed by MCAQD for the 2005 PEI mer all available EPA guidance and was the best available estimate of the effectiveness of the rules it evaluated.

**B. EPA's preference for the use of a single metric, the compliance rate, in determining rule effectiveness is inconsistent with its own guidance.**

In footnotes 8 and 10 of the Federal Register notice, on page 54809 discussing rule effectiveness study methodology, EPA indicates concern with the use of qualitative factors in calculating rule effectiveness. (75 FR 54809). This observation is inconsistent with EPA's own RE guidance documents as quoted above and shown below. Furthermore, MCAQD has made a concerted effort in its RE studies to use all available compliance data in the study period to produce a compliance rate that is statistically valid, pragmatically defensible and is in conformance with current EPA guidance regarding rule effectiveness. MCAQD agrees that the compliance rate is the most important factor in determining a source-specific RE percentage and heavily weighted (70%) the compliance rate in the calculation of RE. However, MCAQD also agrees with current and past EPA guidance repeatedly states that compliance rates should not be the only factor in determining an overall RE rate, as typified by this excerpt from EPA's 1994 guidance on RE:

*"A percentage effectiveness rating is not enough to describe the compliance effectiveness of a rule for a source category. An SSCD study should attempt to link the rating to a regulatory agency's overall effort. The study should address the factors that affect the percentage effectiveness rating such as the compliance rate of the sources in a category, inspection frequency and thoroughness, the language of the rule (i.e., whether or not it has loopholes), and the reporting and recordkeeping by the regulatory agency. Evaluating these factors will provide a more complete evaluation of the effectiveness of a rule." (p. 3-17)*

In summary, EPA's preference for using only the compliance rate to make RE adjustments does not acknowledge all of the program elements that are necessary to obtain the emission reductions anticipated from control measures nor the difficulty in obtaining sufficient information to characterize all of those program elements in a study. EPA's own 2005 RE guidance provides a methodology to appropriately characterize RE for Rule 316 and for the 2008 RE study for Rules 310, 310.01 and 316. MCAQD's methodology has developed an RE adjustment that is statistically valid, pragmatically defensible and is in conformance with current EPA guidance regarding rule effectiveness.

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<sup>3</sup> "Rule Effectiveness Guidance: Integration of Inventory, Compliance, and Assessment Applications," EPA-452/4-94-001, January 1994.

**C. EPA's statement regarding the rule effectiveness calculations for Rule 310.01 did not provide the correct value for the rule effectiveness rate. (75 FR 54809)**

EPA incorrectly quotes a value of 90% for a back-casting of rule effectiveness for Rule 310.01 from the Poppen email.<sup>4</sup> An examination of the Poppen email shows that rule effectiveness for Rule 310.01 was back-casted at 77.5 percent, not 90 percent as quoted by EPA. The 90 percent quoted by EPA refers to the compliance rate, not the final rule effectiveness rate.

**D. EPA did not identify any specific issues on the rule effectiveness study throughout its development and use in the 2005 periodic emission inventory when it was out for public review and comment in January 2007.**

MCAQD published the entire 2005 emission inventory documentation for public review and comment in January 2007. The comments provided by EPA Region 9 on the draft 2005 PEI made no mention of the RE study but only remarked briefly on changing the assumptions about the activity level of construction sources (Rule 310).<sup>5</sup> However, several prominent industry groups including the Arizona Chapter of Associated General Contractors and the Home Builders Association of Central Arizona commented extensively on the draft RE study. Several of the comments provided by the above mentioned parties even cover in particular detail the discussion of random sample inspections versus the use of available inspection data. MCAQD provided extensive response to these comments, detailing the decisions that went into choosing sample inspections over inspection data in developing the RE study. If EPA had concerns with the RE study or its methodology during its development, it did not advise MCAQD during this period nor did it take the opportunity to agree with the comments in support of using inspection data over sample inspections.

**E. EPA is relying on hindsight to evaluate the inventory.**

EPA has historically defended such inventories in states' plan submittals, protecting the states from endless delays and costs occurred from adjusting inventories each time new data and methodology appear. It has been over 3 years since the 2005 PEI was finalized in May 2007. EPA's concerns with the RE studies is a recent development and appeared only after MCAQD developed a new methodology for evaluating RE for the 2008 PEI (released in the spring of 2010). Given EPA's involvement in the 2005 PEI, we were surprised that EPA did not support it in the September 9, 2010 proposed rule. Note that it is common place for EPA to approve plans that do not even contain rule effectiveness studies. EPA states in the May 2005 approval of the District of Columbia's VOC rule that,

*"As numerous of EPA's SIP approval Final actions published in the Federal Register amply demonstrate, EPA has approved hundreds of SIP revisions submitted by states consisting of state rules*

<sup>4</sup> Email from Matthew Poppen, MCAQD, to Gregory Nudd, EPA, "Backcasting of RE rates," April 19, 2010 (Poppen email).

<sup>5</sup> In "Appendix 1, Responsiveness Summary to Comments Received on Public Review Draft 2005 Periodic Emissions Inventory for PM<sub>10</sub> for the Maricopa County, Arizona, Nonattainment Area" of the 2005 Periodic Emissions Inventory for PM<sub>10</sub> for the Maricopa County, Arizona, Nonattainment Area. MCAQD, May 2007

*to control VOCs from stationary sources and source categories where such approvals did not require data and modeling to assess the individual rules' impacts on the NAAQS.*<sup>6</sup>

In hindsight, it is understandable the EPA would wish to minimize the role of construction emissions given the recent deep economic recession experienced by the industry. However, during the time the 2005 Periodic Inventory was developed, construction activity was robust and there was no obvious indication that the industry would experience the coming recession. EPA has historically supported states' RE methodology based on economic realities that were present at the time of their submission.

As an illustration of this point, in its May 2004 approval of the San Joaquin Valley's Serious Area Plan for PM-10, EPA states the following in response to a comment that the emissions inventory used by San Joaquin Valley contained numerous errors,

*"... EPA recognizes that inventories are not static, but are constantly being updated and renewed as new information, techniques and studies are made available.<sup>16</sup> The State and District used the best available inventories at the time of plan development... EPA generally relied on the State and local agencies to develop, maintain and update their inventories...<sup>14</sup> Once a plan has been adopted, EPA does not generally require plan elements such as emissions inventories to be revisited and updated in response to new information. The U.S. Court of Appeals for the District of Columbia Circuit recently addressed a similar issue and affirmed EPA's position. *Sierra Club v. EPA*, 356 F.3d 296 (D.C. Cir. 2004).<sup>17</sup>*

As this quote demonstrates, EPA felt strongly enough about using the "best available inventories at the time of plan development"<sup>8</sup> to defend that position.<sup>8</sup> We agree that this is

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<sup>6</sup> 70 FR 24963.

<sup>7</sup> 69 FR 30013.

<sup>8</sup> The following prevailing opinion from Judge Garland in the court case cited by EPA (*Sierra Club v. EPA*, 356 F.3d 296 (D.C. Cir. 2004)) highlights EPA's defense of the use of the best available inventory at the time of plan development, "44 *Sierra Club argues that the States should nonetheless have revised the D.C. area ROP plans to incorporate the advances of MOBILE6, for two reasons: First, MOBILE6 was available, albeit for only one month, before the States submitted their plans. Second, EPA did not approve the plans until April 17, 2003, over a year after MOBILE6's release. 45 EPA responds that, although it requires that states use the latest model available at the time a plan is developed, see 42 U.S.C. § 7502(c)(3); 40 C.F.R. § 51.112(a)(1), its policy was not to "require states that have already submitted SIPs or will submit SIPs shortly after MOBILE6's release to revise these SIPs simply because a new motor vehicle emissions model is now available." Conditional Approval, 68 Fed.Reg. at 19,121; see also Memorandum from EPA Office 356 F3d 296 *Sierra Club v. Environmental Protection Agency of Air Quality Planning & Standards 2* (Jan. 18, 2002) (J.A. at 530) (same). As the agency explains, "emissions factors, as well as inventory calculation methodologies, are continually being improved." 68 Fed.Reg. at 19,120. Indeed, as its name suggests, MOBILE5 is the fifth generation of this particular model; MOBILE6 is the sixth. To require states to revise completed plans every time a new model is announced would lead to significant costs and potentially endless delays in the approval processes. EPA's decision to reject that course, and to accept the use of MOBILE5 in this case, was neither arbitrary nor capricious." (emphasis added).*

the position EPA should hold, and it is the position it is ignoring by using hindsight to judge the 2005 PEL.

As a result, our expectation that our emissions inventory would be acceptable to EPA is realistic and consistent with the way that EPA has treated other similarly situated states.

## **2. Exceptional Events Demonstration**

### **A. MCAQD requests that EPA Region IX revisit its May 21, 2010 decision not to concur with ADEQ's exceptional events documentation.**

MCAQD supports the revised and supplemental documentation the Arizona Department of Environmental Quality (ADEQ) submitted regarding exceptional events for exceedances measured on March 14, 2008, April 30, 2008, May 21, 2008, and June 4, 2008. MCAQD further requests that EPA revisit its May 21, 2010 decision not to concur with ADEQ's exceptional event documentation prior to the disapproval of the 5% Plan. Based upon information in these additional documents, there is ample evidence that would have addressed the concerns EPA expressed in its May 21, 2010 non-concurrence.

### **B. A more workable approach to implementing the Exceptional Events Rule is needed.**

Arizona's experience with the exceptional event demonstration process has revealed a lack of clarity in the Exceptional Event Rule (EER) and confusion and uncertainty in the implementation of the EER. On October 20, 2010, MCAQD also signed joint comments with ADEQ and MAG that provide further recommendations on the EER and EPA's consideration of our exceptional events documentation. MCAQD also supports the September 11, 2009 recommendations from WESTAR, as well as those from the California Air Resources Board as to how the implementation of the EER might be improved. MCAQD urges EPA to follow through on EPA's commitments to work with Arizona, WESTAR and other states to develop a more workable approach to implementing the EER.

## **3. Conclusion**

EPA's proposed partial disapproval of the 5% Plan is inappropriate when considering the timing of EPA's decision and actual number of exceedances within Maricopa County. All non-attainment area plans are precisely that – plans. Plans are developed using the best available information about the conditions that exist at the time of development. This information is then projected into the future utilizing the best assumptions about what is likely to occur in the future. We believe the 2005 periodic emission inventory met all EPA requirements and was appropriate for the 2007 5% Plan.

We are committed to the protection of our air for the health of our citizens and as shown in the joint letter from ADEQ, MAG and the county, we believe the 2007 5% Plan is working. We also acknowledge that there are always opportunities to improve air quality and we reiterate our willingness to work with EPA in a collaborative process. We again urge EPA to consider the significant impacts of its decision on this plan given these difficult economic times.

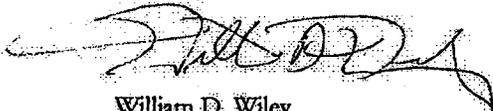
MCAQD appreciates the opportunity to comment on this proposed rulemaking. If you have any questions regarding these comments, please contact Jo Crumbaker of my staff at (602) 506-6705 or me at (602) 506-6701.

Docket ID No. EPA-R09-OAR-2010-0715

October 20, 2010

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Sincerely,

A handwritten signature in black ink, appearing to read "W. D. Wiley", written over a light gray rectangular background.

William D. Wiley

Director

Cc: Benjamin Grumbles, Arizona Department of Environmental Quality  
Dennis Smith, Maricopa Association of Governments

Ken Buchanan  
Assistant County  
Manager

Development Services

Don Gabrielson  
Air Quality Director

Fritz Behring  
County Manager



October 20, 2010

via e-mail to nudd.gregory@epa.gov

Gregory Nudd (Air-2)  
Attention Docket ID No. EPA-HQ-OAR-2010-0715  
Environmental Protection Agency Region IX  
75 Hawthorned Street  
San Francisco, CA 94105-3901

Re: Pinal County Comment; Proposed Disapproval of the PPA 5% Plan

To whom it may concern:

1. Background

The Apache Junction portion of Pinal County<sup>1</sup> constitutes a part of the Phoenix Planning Area PM-10 Serious Nonattainment Area.

Pinal County has concern regarding a number of aspects of the EPA's proposed actions, including the impending application of various punitive measures.

The proposed action affects Pinal County.

2. Objection to Conflicts with Clean Air Act Requirements

Given the EPA's express acknowledgement of inclusion of Arizona's Agricultural Best Management Practices Program, namely A.R.S. §49-457, as an element of the plan under review, any final action will necessarily rest in part on that statute.

In the past, the State of Arizona submitted A.R.S. §49-457 as an element of the assemblage of documents that comprise the curative Phoenix-Area PM-10 SIP. Among other measures, the implementing rules allow but do not require certain measures to mitigate PM-10 emissions resulting from wind erosion. See A.A.C. R18-2-611.

However, since the submittal of A.R.S. §49-457 as a SIP element, that statute was recently twice amended. A.R.S. §49-457 (2009), as amended by Laws 2009, First Regular Session, 2009, Chapter 180 (a.k.a. SB 1225); A.R.S. §49-457 (2010), as amended by Laws 2010, Second Regular Session, Chapter 207 (a.k.a. SB 1193). The substance of those amendments was to establish a preemption in current or future PM-10 nonattainment areas of any local rules pertaining to the regulation of agriculture. Those local rules were preempted in favor of rules adopted by an Agricultural Best Management Practices Committee. The second revisions also designated the Arizona Department of Environmental as the sole entity empowered to enforce the rules adopted by the Ag BMP Committee.

By necessary implication, amendment of a statute that constitutes a SIP element calls for

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<sup>1</sup> The area is more precisely identified as Township 1 North, Range 8 East, Gila & Salt River Base & Meridian, Pinal County, Arizona.

a corresponding revision of the SIP. Moreover, local revision of a SIP provision should be submitted to the EPA within 60 days of adoption. 40 C.F.R. §51.104(d).

Prior to the statutory preemption mentioned above, the county had in place SIP-approved rules that required agricultural sources to exercise "reasonable precautions" to minimize emissions of particulate matter.<sup>2</sup> Those rules applied throughout Pinal County, including that portion of Pinal County that falls within the Phoenix PM-10 Serious Nonattainment Area. The "reasonable precaution" standard applied to an open-ended spectrum of activities, which would include, among other things, an obligation to effect reasonable measures to minimize wind erosion.

Approved SIP elements may be enforced by citizens and by the Administrator. CAA §304(f)(4).

Assuming any forthcoming SIP-approval will implicitly or explicitly include approval of A.R.S. §49-457 (2010), Pinal County objects to any approval of that revised statute as a SIP element affecting Pinal County. That objection rests on three issues.

First, to the extent SIP elements are enforceable by the Administrator and by citizens, a statute that establishes exclusive enforcement authority in a state agency is fundamentally incompatible with citizen- and Administrator-enforceability provisions of Clean Air Act §304.

Second, to the extent the existing BMP program and Pinal County "reasonable precaution" rules already exist as SIP elements, elimination of the enforceability provisions and preemption of the local rules both violate the SIP-modification-prohibition of CAA §110(i).

And third, where existing SIP-approved regulations require reasonable precautions, preempting those regulations and allowing sources to electively choose to mitigate emissions amounts to a relaxation that fails to meet the effectiveness test under CAA §172(c)(8).

Therefore, Pinal County objects to any approval of A.R.S. §49-457 (2010) as a SIP element.

### 3. Proposed Possible Waiver Under Clean Air Act 188(f)

The Phoenix area has implemented a Serious Area PM-10 Plan. This discussion rests on an assumption that adequate BACM measures have been submitted, approved and implemented.

Still, due to on-going exceedances that showed a failure to attain by the serious area attainment date the EPA has also required submission of a "5% Plan."

The EPA has now proposed disapproval of the "5% plan" based on four exceedances at a single monitor. By acclamation, each of those exceedances resulted in substantial part from wind-driven emissions.

The monitor in question sits near the channel of the Salt River, which runs through the heart of Phoenix. That channel occurs lies downstream of the confluence with the Verde River, and drains much of the central region of Arizona. Today, the Salt River normally consists of a wide channel with a narrow ribbon of vegetation supported primarily by discharges from upstream wastewater treatment facilities. While up-stream dams may contain runoff from most rain- and snowfall-events, releases from major storm events still periodically flood the whole of

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<sup>2</sup> PGCAQCD Reg. 7-3-1.2(E) (1975) provided that "[n]o person shall cause, suffer, allow or permit the performance of agricultural practices including but not limited to tilling of land and application of fertilizers without taking reasonable precautions to prevent particulate matter from becoming airborne." That rule was approved as a SIP element. See 43 FR 53034 (11/15/78). An identical successor provision, PCAQCD Code §4-2-040(C), was similarly approved as a SIP element. See 75 FR 17307 (4/6/2010).

the normally dry channel. To the common knowledge, fluvial channels produce deposits of fine, loose materials, including silt and clay. Again, to the common knowledge, fine, loose materials are highly susceptible to wind erosion.

Much discussion has ensued as to whether the EPA's Exceptional Events Rule should be invoked to exclude those events from the assessment regarding whether the area has attained the PM-10 standard. The focus of that discussion has addressed the characteristics and regional nature of wind events.

As an alternative analysis Pinal respectfully submits that those exceedance events should be examined to determine whether they predominantly result from non-anthropogenic emissions, and thus justify an attainment date waiver under CAA §188(f).

Where on-going exceedances result from non-anthropogenic emissions, and other relevant conditions have been met, the Clean Air Act allows for a waiver of a serious area attainment date. See CAA §188(f).

Regardless of speed, the wind itself is unquestionably non-anthropogenic. On the other hand, wind erosion reflects not merely the wind, but the surface conditions as well.

It is clear that Congress was aware of the effect of surface conditions, and intended a relatively narrow exemption under CAA §188(f).

*[T]he legislative history suggests that Congress contemplated a narrow definition of what may qualify as "nonanthropogenic" and would limit it to activities where the human role in the causation of the pollution is highly attenuated (see generally H.R. Rep. No. 490). "The term 'anthropogenic sources' is intended to include activities that are anthropogenic in origin. An example of such sources is the dry lake beds at Owens and Mono Lakes in California, which give rise to dust storms that are a result of the diversion of water that would otherwise flow to such lakes and should be considered anthropogenic sources" (H.R. Rep No. 490 at 265). 57 FR 13498, 13545 (4/16/92).*

However, the channel of the Salt River contrasts markedly from a drained lake bed.

A drained lake represents an un-natural, man-caused condition of a persisting nature.

On the other hand, in its natural state, much of the channel of the Salt River was covered by dry, erodible material even before the intervention of man.

In the desert southwest, the flow in river channels is largely if not wholly ephemeral in nature. Large weather events or heavy snowfall accumulations can produce runoff events that effectively scour the whole of the channel and leave fluvial deposits that covered much of the natural channel. But given that this area lies on the floor of the Sonoran Desert, seasonal precipitation patterns and periodic droughts have assured that from time immemorial much of the channel of the Salt River channel has been dry.

Long before the inception of this nation, native Americans diverted flows from the Salt River for irrigation purposes. Reaching back more than a millennia, anthropogenic efforts have reduced the flows in the Salt River. See [www.waterhistory.org/hohokam2/](http://www.waterhistory.org/hohokam2/).

Those irrigation efforts were perfected early during the last century, when the Federal Government built a diversion dam that effectively captured modest residual flows into a local irrigation system that largely followed the pattern of historic irrigation canals. Coupled with a series of control dams subsequently built on the Salt and Verde Rivers, flow in the Salt River channel through Phoenix is now largely controlled. See [www.srpnet.com/water/canals/origins.aspx](http://www.srpnet.com/water/canals/origins.aspx).

Draining Owens Lake amounted to a permanent anthropogenic change that exposed material that was highly subject to wind erosion. A water-filled lake never generated PM-10 as a result of wind-erosion. A dry lake bed is always subject to wind erosion. Anthropogenic change

brought about a fundamental change in the character of the area.

In contrast, controlling the Salt River for irrigation purposes may have incrementally altered the susceptibility of the channel to wind erosion. But in a pattern that varied with meteorological and climatological shifts, the channel of the Salt River had always been naturally subject to wind erosion. The perfection of the diversion of the Salt River for irrigation purposes may have increased that susceptibility to wind erosion, but the change was a matter of degree and not of character.

Accordingly, to a greater or lesser extent, the channel of the Salt River may fairly be characterized as a natural, non-anthropogenic source of emissions. When acted upon by the unquestionably non-anthropogenic wind, reasoned conjecture could well conclude that the 2008 violations at the West 43rd Avenue monitor were predominantly nonanthropogenic in nature.

The EPA has the authority to retro-actively rescind a serious area attainment date.

*[S]ubsequent to ... [a serious area] reclassification, the area may later apply for a waiver of the serious area attainment date if it can demonstrate that even after implementing BACM (and after considering the extended attainment and post-attainment provisions of sections 188 and 189 of the Act), nonanthropogenic emissions will prevent the area from attaining the NAAQS. Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 51 FR 41998, 42006 (8/16/94).*

Also see 58 FR 18190, fn. 3 (4/8/93).

The EPA also has inherent authority to defer at least a moderate area attainment date to allow for an assessment of the relative contribution of anthropogenic versus nonanthropogenic sources. Addendum to the General Preamble, at 42005. Logically, the agency has similar inherent authority with respect to serious area attainment dates.

Therefore, Pinal County submits that the EPA should invoke its inherent authority to at least temporarily suspend the outstanding serious area attainment date, which would also implicitly suspend the need to take the various actions contemplated under the Act for failure to attain by that date. The EPA should correspondingly engage the primarily involved regulatory bodies to undertake an analysis to ascertain whether wind blown emissions emanating from the Salt River channel should be characterized as nonanthropogenic emissions to the extent that a waiver of the serious area attainment date should be granted under §188(f) of the Act.

I appreciate your consideration of these comments.

Sincerely yours,

/dpg/

Donald P. Gabrielson  
Director  
Pinal County Air Quality

enc.

cc w/enc. via e-mail: Colleen McKaughan, EPA Region IX  
Nancy Wrona, ADEQ  
Lindy Bauer, MAG  
Rick Lavis, ACGA



## ARIZONA CHAPTER ASSOCIATED GENERAL CONTRACTORS

1825 West Adams • Phoenix, Arizona 85007 • (602) 252-3926 • Fax (602) 252-5870

October 20, 2010

By E-Mail ([Nudd.Gregory@USEPA.GOV](mailto:Nudd.Gregory@USEPA.GOV)) and Hand Delivery

Gregory Nudd  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, California 94105-3901

Re: EPA-R09-OAR-2010-0715: Comments of Arizona Chapter Associated General Contractors and Industry Vendors and Material Suppliers on Proposed Disapproval of Arizona State Implementation Plan Pertaining to PM-10 in Maricopa County.

Dear Mr. Nudd,

Thank you for extending the comment period an additional 8 days in an effort to allow the regions stakeholders an opportunity to comment on this important decision. I am writing on behalf of the Arizona Chapter Associated General Contractors ("AZAGC") its industry vendors and material suppliers with regard to the proposal by the U.S. Environmental Protection Agency ("EPA") to partially approve and disapprove the Arizona State Implementation Plan ("SIP") pertaining to the Maricopa County PM-10 non-attainment area. EPA proposed on September 9, 2010 to partially disapprove the SIP, including a component thereof submitted by the Maricopa Association of Governments ("MAG") that detailed how the County could achieve five percent reductions in PM-10 levels.

AGC is the oldest construction trade association in the state representing over 220 heavy civil contractors, industry vendors and material suppliers approximately 19,000 individuals throughout Arizona since 1934. Some of our members have been "building Arizona" for over 120 years. Currently Arizona's construction industry is experiencing significant economic challenges. Construction has the highest unemployment levels of any industry in Arizona. The recent figures show a 17.1% unemployment rate. Since this economic crisis began the industry has lost over 114,000 jobs, new construction starts are at their lowest level in thirty years.

AGC realizes it is critical for the region to comply with the national ambient air quality standards ("NAAQS"). Our industry is the first to be penalized if the region does not meet attainment. The primary funding source for our members is transportation and infrastructure dollars most of which fall victim to your proposed disapproval determination through a number of sanctions including a "conformity freeze". This action could prevent some transportation projects in the Maricopa region from moving forward ultimately crippling the construction industry already devastated by the current economic climate.

A conformity freeze would be especially unfair to our region considering the number of measures and millions of dollars that our industry has employed to control PM-10 over the last two years. We carried out a very aggressive action plan educating the majority of our workforce on dust control, participating in developing a dust control handbook and field guide, raising our compliance rate and as indicated in the 2008 Maricopa County Air Quality Emissions inventory reducing our emissions from contributing 13% (2005 inventory) to 6%.

It is an ongoing concern of our industry that EPA rarely recognizes high wind events in Arizona as "exceptional events." The region has been clean at the monitors with the exception of these unusual high wind occurrences that affect primarily the West 43<sup>rd</sup> monitor. To penalize the region for a localized problem is unreasonable, especially when the Exceptional Events Rule ("EER") is perceived as flawed and fourteen western states as well are concerned about the inconsistencies in how it is administered.

*Highway • Heavy • Federal • Municipal-Utilities  
Construction*

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Page 2.

In closing AGC, its members and their families all care about the region and the air everyone breathes. As an industry we are committed to complying with the Clean Air Act and will work together with other industry stakeholders and other interested parties to bring the region into attainment. We ask that EPA fully consider the magnitude partially disapproving this plan will have on our industry as well as Arizona. It is our hope you will delay any decision regarding final disapproval action until the Agency has had an opportunity to review all of the scientific data MAG and Arizona Department of Environmental Quality ("ADEQ") have provided regarding high-wind exceptional events and you will reopen the EER and quickly review and propose revisions that will adequately address unique meteorological conditions known to occur not only in Arizona but across the southwest.

AGC appreciates the opportunity to comment and respectfully asks your consideration of these requests.

Sincerely,



Amanda McGennis  
Sr. Vice President

**U.S. Environmental Protection Agency (EPA) Responses to Maricopa Association of Governments (MAG), Maricopa County Air Quality Department, and Arizona Department of Environmental Quality (ADEQ) Questions Regarding a Revised 189(d) Plan for the Maricopa PM-10 Nonattainment Area**

Below we respond to questions posed to EPA by MAG, Maricopa County, and ADEQ in recent emails<sup>1</sup>. Please note that we respond to these questions in the context of an open rulemaking on the Maricopa County (Phoenix) PM-10 Nonattainment Area; Serious Area Plan for Attainment of the 24-Hour PM-10 Standard; Clean Air Act Section 189(d). Therefore, to the extent that these questions implicate that action, we are necessarily circumspect in our responses. Moreover, because most of the questions involve a hypothetical future plan, we may need to revise or expand our responses when more of the technical bases for such a plan have been developed. In other words, while these responses are intended to provide guidance to MAG and ADEQ at this preliminary stage of the development of a replacement plan under CAA section 189(d), they cannot be considered to be exhaustive or immutable.

In reviewing state implementation plan (SIP) submittals, it is EPA's role to approve state choices, provided they meet the requirements of the Clean Air Act (CAA) and applicable regulations. It is the state's responsibility to identify the necessary mix of control measures and programs intended to, among other CAA requirements, achieve timely attainment of air quality standards. As part of this process, the state is also required to hold a public hearing and determine appropriate responses to comments they received prior to submitting the SIP to EPA for action. While EPA can provide input regarding the CAA and EPA regulations and guidance during the SIP development process, we cannot otherwise direct the state to make specific choices or take specific actions.

Maricopa County Air Quality Department submitted two questions. EPA believes that our responses to MAG and ADEQ address Maricopa County's questions as well.

#### **MAG Questions**

1. What would be the earliest attainment year acceptable to EPA? What are Jan Taradash's ideas for extending the year of attainment?

**As stated in our proposed action on the 189(d) plan, the current attainment deadline is as expeditiously as practicable, but no later than June 6, 2012. [75 FR 54813-54814]. EPA has the authority under CAA section 172(d)(3) to extend that deadline for up to 5 additional years "considering the severity of nonattainment and the availability and feasibility of pollution control measures." When proposing an expeditious attainment date it is important for the State to consider that there can be no more than three exceedances at any one**

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<sup>1</sup> See email from Lindy Bauer, Maricopa Association of Governments to Colleen McKaughan dated September 21, 2010 with attachments and email from Eric Massey, Arizona Department of Environmental Quality to Colleen McKaughan dated October 1, 2010 with attachments. Responses to two questions in email from Jo Crumbaker, Maricopa County Air Quality Department, dated October 4, 2010, have been incorporated into responses for MAG and ADEQ.

monitor over a three-year period in order to show attainment. [40 CFR Part 50, Appendix K]. Thus there must be 3 years of clean data prior to the attainment date.

2. Should we continue to use 2007 emissions as the base year for the five percent per year calculations?

Assuming you are asking what year the 5% emission reductions must begin, under CAA section 189(d), the annual 5% reductions of PM-10 or PM-10 precursors begin upon the date of submittal of the replacement plan. If the goal is to submit a replacement plan in early 2011, then the reductions need to begin in 2011.

3. Do any changes need to be made to MCAQD's 2008 Periodic Emissions Inventory for PM-10, June 2010 (2008 PEI)?

There are three issues that need to be addressed in the 2008 PEI before it is used as the basis for a plan:

**Vacant land inventory:** The vacant land inventory is based on MAG land use data. It is unclear what methodology MAG used to develop this data. These land use assumptions are essential to the accuracy of the windblown dust inventory and therefore to developing a strategy to attain the PM-10 standard on days with elevated winds. Clark County, Nevada has a comprehensive document explaining how their vacant land inventory was developed and verified. A similarly detailed effort would ensure the most accurate possible data for understanding the sources of windblown dust in the Maricopa area.

**Road dust emissions:** EPA has proposed a new method for calculating PM-10 emissions from paved roads.<sup>2</sup> EPA's preliminary analysis indicates that this method results in significantly lower estimates of emissions of PM-10 from travel on paved roads. This new method should be carefully evaluated by Maricopa County Air Quality Department, MAG and ADEQ to determine if it is more representative of conditions in Phoenix than the method used in the 2008 PEI and in the conformity analysis for the recently updated transportation plans. If it is more representative, then it should be used rather than the method currently in AP-42. It is important to note, however that EPA must finalize this method and announce that it is an approved method in the Federal Register before states can use it for conformity purposes.

**Rule effectiveness calculation methodology:** The Maricopa County Air Quality Department has not made the case that it is appropriate to use qualitative factors to estimate rule effectiveness for source categories that have significant compliance data readily available (e.g., earth moving sites, non-metallic mineral sites, vacant lots). The relevant EPA guidance<sup>3</sup> states that these qualitative factors are applicable only when sufficient data on sources is not available. Given the large number of inspections of sources subject to

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<sup>2</sup> See <http://www.epa.gov/ttnchie1/ap42/ch13/>

<sup>3</sup> "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations." EPA-454/R-05-001, November 2005.

**MCAQD Rules 310, 310.01 and 316, it appears that sufficient data is available and actual compliance data should be used.**

4. Should the base year emissions be adjusted to be consistent with the 2008 PEI?

**Once the concerns addressed in our response to question #3 above have been addressed, the 2008 PEI should be the basis of the 2011 inventory from which the 5% per year reductions are taken. (Assuming the plan is submitted in early 2011.)**

5. Can we use the same base case design days used in the 2007 Plan when we re-model the new attainment year?

**It would be acceptable to use the same base case design days in the new plan. Instead of developing new base case design days, efforts should be focused on developing an accurate temporally and spatially resolved controlled case for the attainment demonstration.**

6. Can we continue to use AERMOD for modeling attainment in the Salt River Area and rollback for the other attainment demonstrations?

**Yes, but it is important that MAG and Region 9 agree upon a modeling protocol before the modeling begins.**

7. Do we need to show an equivalent of one year's RFP as contingency credit for each year (i.e., 2007 through the attainment year) or can we show this credit only for future years (i.e., 2011 through the attainment year)?

**Assuming you are asking if you need to include contingency measures for past years or future years, it needs to address only future years. The new plan must show reductions in excess of what is needed for the reasonable further progress (RFP) milestone years and attainment year.**

8. Does the modeling domain for the high wind day (i.e., February 15, 2006) need to be expanded?

**It may be appropriate to expand the domain for the high wind day, given that the W. 43<sup>rd</sup> Avenue monitor is relatively close to the current modeling domain boundary and given the land use differences just outside the current domain. This kind of issue should be worked out through discussions with EPA on the modeling protocol.**

9. What milestone years should be assumed in demonstrating RFP?

**See our answer to question #7 and the General Preamble Addendum at 59 FR 42016. The current plan's RFP line starts from 2007, the submittal year, with the only milestone three years later in the attainment year (2010). A similar approach would work for the new plan, although it is possible that additional milestone years will be required in the new plan.**

10. Since there is an EPA-approved BACM analysis in the Serious Area PM-10 Plan, what is the regulatory basis for preconditioning approval of the revised plan on an “analysis of BACM controls in other geographic areas”?

**The statement on p. 54820 of the notice of proposed rulemaking simply recognizes that because the area cannot attain by 2010, additional measures will be needed. The reference to best available control measures (BACM) is common sense—when assessing additional measures, the State should be considering such measures adopted in other nonattainment areas. As stated in our proposed action, we could however effectively “precondition” approval on certain measures as authorized by CAA section 179(d)(2) which provides that, following the failure of an area to attain, the subsequent SIP revision “shall include such additional measures as EPA may reasonably prescribe, including all measures that can be feasibly implemented in the area in light of technological achievability, costs, and any non-air quality and other air quality-related health and environmental impacts.”**

11. The 53 committed control and contingency measures in the 2007 Five Percent Plan address all major sources of PM-10 emissions; what other measures need to be added for the Plan to be approvable?

**Measures may need to be added that ensure the area will expeditiously attain the standard. The determination of new or strengthened measures should be derived from an analysis of the causes of the continuing exceedances and an assessment of feasible controls for the sources responsible.**

12. Will EPA be providing comments on the Supplemental Exceptional Event submissions for the 4 days in 2008 that are currently out for public comment? If the information submitted is found to be acceptable in providing a basis for approving the exemption requests for these days, would it influence any of the 5% Plan disapprovals? How does EPA plan to address the 2009 days flagged as Exceptional Events?

**Yes, EPA will address any information supplied to us as a comment on our proposed action. Even if we were to agree with these four exceptional events claims, there are still significant issues that need to be resolved with the rest of the current 5% Plan.**

**We have not yet received any documentation for the 2009 exceptional event claims.**

13. We are very concerned with the short time period between the September 3, 2010 proposed action and the January 28, 2011 final action. What showing would the State of Arizona have to make to extend the current January 28, 2011 deadline?

**Response will be provided next week.**

14. On May 25, 2010, EPA prepared a document, Phoenix PM-10 Plan: Transportation Conformity Implications and Timelines. In our description of the conformity freeze, EPA indicated that “The MVEB submitted in the new 5% plan should be consistent with both the RFP and attainment demonstrations. Note that EPA can act on the RFP budgets separately from the attainment budgets if the attainment target set in the plan is deemed adequate. If the State can develop an

RFP plan that meets EPA requirements, this approach allows for transportation planning to continue while EPA and the State work to resolve concerns about the attainment demonstration.” Please describe how this would work and what it would mean. What is the earliest point in the process that EPA could find a new budget adequate and lift the conformity freeze?

**Response will be provided next week.**

15. When MAG submits a revised Five Percent Plan with a new conformity budget, would EPA be able to issue an adequacy finding within 90 days or would the conformity budget have to be approved as part of the Plan approval?

**When Arizona submits a revised 5% plan, EPA will review the submitted MVEB to see if it is consistent with the requirements of the Clean Air Act. If it is consistent, EPA will propose to find it adequate. This process typically takes between 90 and 120 days.**

16. How long will it take EPA to take action on the revised Five Percent Plan after it is submitted?

**Response will be provided next week.**

17. Does the 5% PM-10 annual emission reduction requirement extend indefinitely until there are three years of ambient measurements without a violation of the PM-10 NAAQS?

**Yes. Section 189(d) of the Clean Air Act requires 5% reductions in PM-10 or PM-10 precursors from the date of plan submission until the standard is attained.**

## **ADEQ Questions**

### **GENERAL**

1. Is this Serious Area eligible for a 5-year extension for the attainment deadline pursuant to Clean Air Act Sections 172(a)(2) “considering the severity of nonattainment and the availability and feasibility of pollution control measures,” and 188(e) due to “the nature and extent of nonattainment, the types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources...) and the technological and economic feasibility of various control measures”?

**See the response to MAG question number 1 for response with respect to Section 172 (a)(2). We do not believe any additional extensions are permissible under 188(e).**

2. What is the first milestone year by which RFP should be demonstrated as required by Section 110(c): 3 years after 2007? Or the third year of control measures required by the Revised Plan?

**See the response to MAG question number 9.**

3. If EPA were to prescribe other control measures pursuant to CAA Section 179(d)(2) what would EPA prescribe to ensure the Plan is approvable?

See response MAG question number 10.

4. Would the Emissions Budget for all source categories have to be completed in order for EPA to make an adequacy finding for the Motor Vehicle Emissions Budget (MVEB)?

**The budgets must meet all of the adequacy criteria contained in the conformity rule. (40 CFR 93.118(e)(4)). In order to meet 40 CFR 93.118(e)(4)(iv) the plan must address all emission categories. In addition, the EPA must ensure that the MVEB is consistent with the attainment, RFP and 5% reduction demonstrations.**

5. Does EPA have examples of descriptions used by other jurisdictions to demonstrate the State's ability to implement enforcement of the statutory provisions that EPA identified in the partial approval/disapproval? EPA specifically identified A.R.S. §§ 49-457 (Agricultural Best Management Practices [Ag BMP] program), -457.01 (Leaf blower restriction/training), -457.03 (Off-road vehicles) and -457.04 (Off-highway vehicle [OHV] and all-terrain vehicle dealers, etc.).

**States and responsible local agencies must demonstrate that they have the legal authority to adopt and enforce provisions of the SIP and to obtain information necessary to determine compliance. SIPs must also describe the resources that are available or will be available to the state and local agencies to carry out the plan, both at the time of submittal and during the 5-year period following submittal. The 189(d) plan submitted by MAG and ADEQ in 2007 does a good job of identifying the legal authority for the entities responsible for implementing control measures. The plan also does a good job describing the resources available to carry out some of the control measures. For example, measures implemented by local jurisdictions typically include a section entitled "Level of Personnel and Funding Allocated for Implementation". This type of information should be provided for all control measures.**

#### **AGRICULTURAL BEST MANAGEMENT PRACTICES**

6. In an April 14, 2010, letter to the Agricultural Best Management Practices (Ag BMP) Committee Chairman Dan Thelander, EPA recommended that the Ag BMP Committee continue considering modifications to the "cropland" BMP category. Can EPA specify if it was referring to land leveling, transplanting and the shuttle system as additional BMPs? Alternatively, was EPA pointing out that that all of the current BMPs need re-examination to ensure that there is sufficient specificity for the purposes of enforceability and that the measures are implemented at a BACM level?

**Our April 14, 2010 letter advised the Ag BMP Committee "to continue considering modifications to the portions of the Maricopa BMP Rule that apply to cropland." Our intent was to broadly refer to all the existing requirements in the rule that apply to cropland and areas associated with cropland. We advised the Committee to consider modifications to existing requirements since, as stated in the April 14, 2010 letter, "several other areas have developed rules to control PM10 from agricultural sources since the Environmental Protection Agency (EPA) approved Maricopa's BMP program as meeting**

**the Federal Clean Air Act (CAA) requirements for Best Available Control Measures (BACM) in 2002." As we stated in our proposed action, the other agencies that have adopted these controls, as well as EPA, have acquired additional expertise about how to control emissions from these sources and implement regulations for them. As a result, we no longer believe that the requirements in the rule that we approved in 2002 for the Maricopa area fully meet CAA requirements [75 FR 54812 – 54813].**

7. Are there particular definitions in Arizona Administrative Code R18-2-610 that EPA expects the Ag BMP Committee to review for specificity? Is there EPA guidance available regarding what level of specificity is acceptable?

**Comparable programs in other areas such as the San Joaquin Valley have provided more specificity to meet CAA requirements through an application submittal and approval process (see 75 FR 54813, footnote 15). Once we finalize our action, we would like to work with the Ag BMP Committee, ADEQ, USDA, and all interested stakeholders to further refine what level of specificity is needed to meet CAA requirements and how the BMP program can be revised accordingly.**

8. Is EPA open to alternatives to an "application submittal and approval process" for implementing the BMPs or would EPA consider a "notice and go" approach that could be less resource intensive for ADEQ? Would adding specificity and enforceability to the existing program (where appropriate) resolve EPA's concerns?

**We understand that ADEQ has limited resources, and will work with the Ag BMP Committee, ADEQ, USDA, and all interested stakeholders to develop an approach that will satisfy CAA requirements while addressing that concern. Once we finalize our action, we would like to have more specific discussions about how the Ag BMP Committee can address EPA's concerns.**

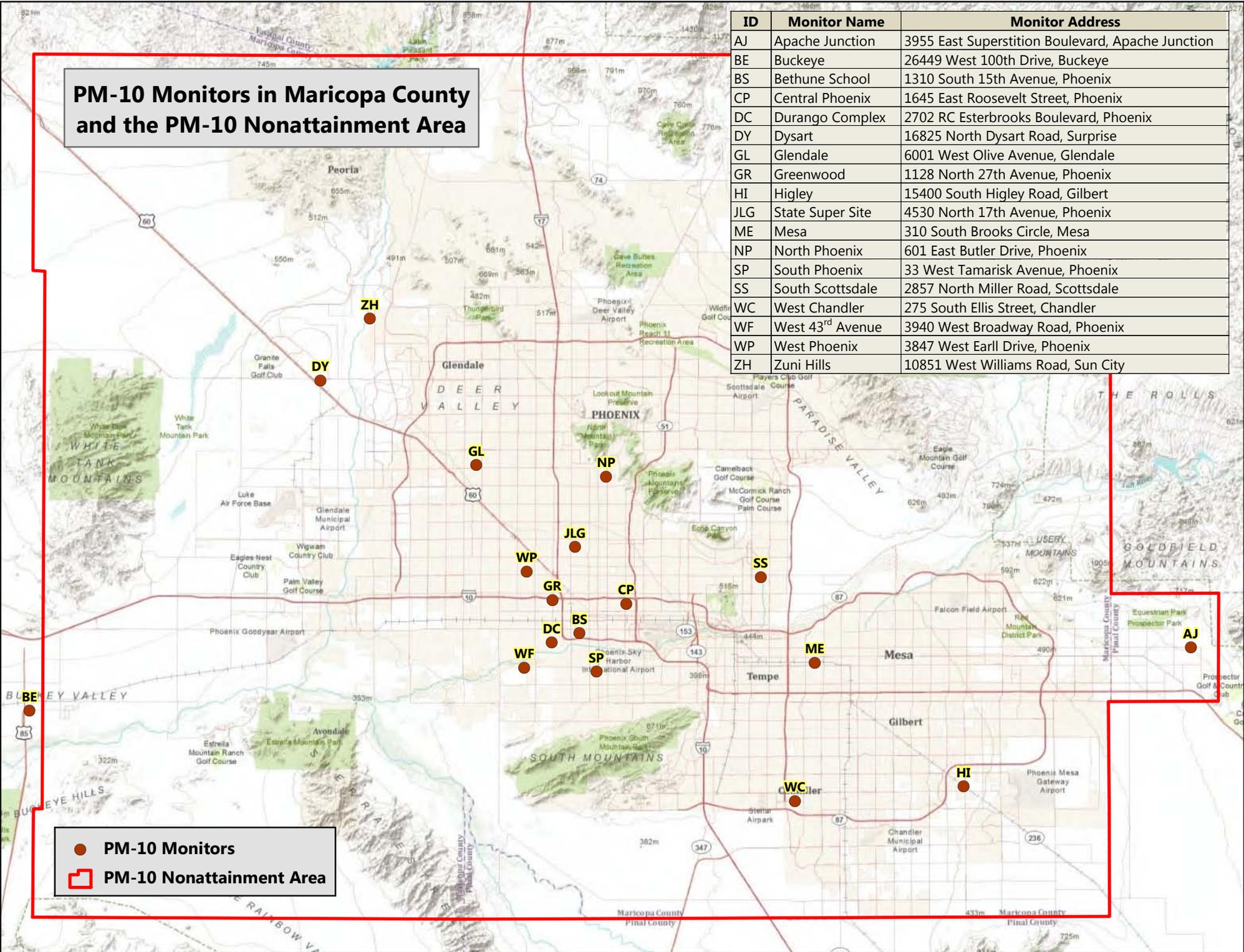
9. What guidance does EPA have for the Ag BMP Committee on how confidential agricultural business information can be protected while providing the greater level of specificity and as it relates to the application process?

**The regulations governing EPA's treatment of confidential business information are in 40 C.F.R. Part 2, Subpart B.**

## PM-10 Monitors in Maricopa County and the PM-10 Nonattainment Area

ID	Monitor Name	Monitor Address
AJ	Apache Junction	3955 East Superstition Boulevard, Apache Junction
BE	Buckeye	26449 West 100th Drive, Buckeye
BS	Bethune School	1310 South 15th Avenue, Phoenix
CP	Central Phoenix	1645 East Roosevelt Street, Phoenix
DC	Durango Complex	2702 RC Esterbrooks Boulevard, Phoenix
DY	Dysart	16825 North Dysart Road, Surprise
GL	Glendale	6001 West Olive Avenue, Glendale
GR	Greenwood	1128 North 27th Avenue, Phoenix
HI	Higley	15400 South Higley Road, Gilbert
JLG	State Super Site	4530 North 17th Avenue, Phoenix
ME	Mesa	310 South Brooks Circle, Mesa
NP	North Phoenix	601 East Butler Drive, Phoenix
SP	South Phoenix	33 West Tamarisk Avenue, Phoenix
SS	South Scottsdale	2857 North Miller Road, Scottsdale
WC	West Chandler	275 South Ellis Street, Chandler
WF	West 43rd Avenue	3940 West Broadway Road, Phoenix
WP	West Phoenix	3847 West Earll Drive, Phoenix
ZH	Zuni Hills	10851 West Williams Road, Sun City

- PM-10 Monitors
- PM-10 Nonattainment Area





Greater Phoenix  
Chamber of  
Commerce

October 15, 2010

Gregory Nudd  
US Environmental Protection Agency Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Re: PM-10 Nonattainment Area Plan for Maricopa County, Arizona

Dear Mr. Nudd:

On behalf of the Greater Phoenix Chamber of Commerce, I am writing to express concern regarding the proposed disapproval of the Maricopa Association of Governments (MAG) Five Percent Plan for PM-10 and the possible impacts such a decision may have on the Phoenix metropolitan area. As EPA is likely aware, the state of Arizona is currently experiencing significant economic struggles, including large numbers of home foreclosures, high levels of unemployment, and a budget crisis which continues to burden business and citizens through increased costs and reduced services. Should EPA's actions impose a conformity freeze, Arizona's economy will be further crippled. Loss of funds to support this region's transportation plans will endanger our ability to accommodate future growth and economic incentives that are important to retention and expansion of our business community. In light of the critical nature of EPA's pending decision, the Greater Phoenix Chamber of Commerce respectfully requests that EPA reconsider the deadline for final action on the MAG Five Percent Plan for PM-10.

With nearly 3,000 members consisting of small, medium and large businesses, the Greater Phoenix Chamber of Commerce places great value on the relationships with our government partners, including the MAG, Maricopa County Air Quality Division and Arizona Department of Environmental Quality. Along with these entities, we are committed to collaborating with all stakeholders to create a healthy living environment for the people of Arizona while working to maintain a positive and reasonable regulatory climate. In doing so, we appreciate the opportunity to engage in community efforts to work toward an acceptable plan for EPA which balances economic activity with public health.

Unfortunately, these efforts would be hampered if EPA issues final action on the Five Percent Plan by January 28, 2011. As the Arizona legislative session is scheduled to begin January 10, 2011 the opportunity to engage the legislature on this significant issue is limited. Additionally, clarification on a number of issues associated with the Plan and the necessary steps to move toward meeting approval is still pending, making it difficult to rework the Plan. An extension of time would allow MAG the opportunity to work with stakeholders to develop an approvable plan before any penalties are imposed that could further jeopardize Arizona's economic recovery. Many of the issues identified by EPA in the proposal to disapprove the plan can be resolved with productive dialogue and exchange between MAG, ADEQ, and EPA, and sufficient time should be allowed for this to occur.

Furthermore, in response to the disapproval of the exceptional events demonstrations, we would also like to reiterate the concerns expressed by others in regard to the EPA's exceptional events rule. Arizona, like other western states, is affected by certain natural conditions and events that increase PM-10 levels. We respectfully request that EPA review the exceptional events rule and develop guidance or an interim rule that would provide ADEQ with clarity on how to analyze exceptional events.

The Greater Phoenix Chamber of Commerce supports those activities that enhance the economic status of Phoenix and the surrounding region, believing that a strong economy results in a better life for all citizens. We hope collaborative efforts with EPA will identify a pathway toward continuing success for Maricopa County in improving local air quality. We are committed to our community partners to support these efforts and hope EPA will strongly consider our requests.

Sincerely,

A handwritten signature in black ink that reads "Todd Sanders". The signature is written in a cursive style with a large, sweeping flourish at the beginning.

Todd Sanders  
President and CEO  
Greater Phoenix Chamber of Commerce

**MAG Technical and Policy Committee Chairs and Vice Chairs  
January 2011 Appointments**

MAG Committee	Chair	Term	Vice Chair	Term
*Enhancement Peer Review Group	John Hauskins, Maricopa County	2 <sup>nd</sup>	Tami Ryall, Gilbert	2 <sup>nd</sup>
Population Technical Advisory Committee	Jim Bacon, Paradise Valley	2 <sup>nd</sup>	Charlie McClendon, Avondale	2 <sup>nd</sup>
Public Safety Answering Point Managers Group	Patrick Cutts, Scottsdale	2 <sup>nd</sup>	Tonia Rogers, Tolleson	2 <sup>nd</sup>
Regional Domestic Violence Council	Kim Humphrey, Phoenix	2 <sup>nd</sup>	Barbara Marshall, Maricopa County	2 <sup>nd</sup>
Solid Waste Advisory Committee	Vacant		Vacant	
Standard Specifications & Details Committee	Troy Tobiasson, Goodyear	2 <sup>nd</sup>	Thomas Wilhite, Tempe	1 <sup>st</sup>
Street Committee	Dan Cook, Chandler	2 <sup>nd</sup>	Charles Andrew, Avondale	2 <sup>nd</sup>
Technology Advisory Group	Dale Shaw, Mesa	2 <sup>nd</sup>	Patrick Timlin, El Mirage	2 <sup>nd</sup>
Transportation Review Committee	Dave Moody, Peoria	2 <sup>nd</sup>	Dave Meinhart, Scottsdale	2 <sup>nd</sup>
Transportation Safety Committee	Julian Dresang, Tempe	2 <sup>nd</sup>	Margaret Boone-Pixley, Avondale	2 <sup>nd</sup>
Water Quality Advisory Committee	David McNeil, Tempe	2 <sup>nd</sup>	David Iwanski, Goodyear	2 <sup>nd</sup>
Transit Committee	Debbie Cotton, Phoenix	2 <sup>nd</sup>	Cathy Colbath, Glendale	2 <sup>nd</sup>

\* This committee is dormant in 2011 due to a change in ADOT schedule (2 year program).

City of Tempe  
P. O. Box 5002  
31 East Fifth Street  
Tempe, AZ 85280  
480-350-8200  
www.tempe.gov



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Public Works Department  
Engineering Division

November 2, 2010

Mayor Thomas Schoaf, Chairman of Regional Council  
c/o Maricopa Association of Governments  
302 N. 1<sup>st</sup> Avenue, Suite 300  
Phoenix, Arizona 85003

Dear Mayor Schoaf,

I'm writing to you to express my interest in being appointed as the Vice-Chair of the Standard Specifications & Details Committee. I have served on this technical committee as a representative for the City of Tempe for two years. I have thirty years of combined construction and design experience as a Professional Civil Engineer in which 14 years has been with the City of Tempe. I have a Bachelor and Master of Science degree in Civil Engineering and a Master of Public Administration.

Tempe believes this committee is essential in the MAG process and I appreciate your consideration of my application for the Vice-Chair position.

Sincerely,

A handwritten signature in cursive script that reads 'Thomas W. Wilhite'.

Thomas W. Wilhite, P.E.  
Principal Civil Engineer  
Manager, Development and Utilities Section  
City of Tempe Engineering Division

## Executive Director Evaluation for Executive Committee

The following form lists qualities and performance, which are generally required of executive directors. Please circle the appropriate response describing the Executive Director's level of performance according to the following scale.

- 1 = excellent
- 2 = good
- 3 = adequate
- 4 = needs improvement
- 5 = unacceptable
- do not know = no basis for making a judgment

In the comment section, please give examples and/or reasons for rankings when you think that would help explain your evaluation.

### Evaluation Topics

#### 1) OVERALL PERFORMANCE

*Helping to provide a sense of direction for the organization*

1      2      3      4      5      do not know

*Taking overall responsibility for the organization's well-being*

1      2      3      4      5      do not know

*Providing program leadership*

1      2      3      4      5      do not know

*Providing leadership for staff*

1      2      3      4      5      do not know

*Providing leadership in financial planning*

1      2      3      4      5      do not know

Comments

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#### 2) ANNUAL BUDGET AND WORK PROGRAM

*Knowledge of Budget and Work Program*

1      2      3      4      5      do not know

*Development of new revenue sources*  
1    2    3    4    5    do not know

*Rapport/relationships established with revenue agencies (ADOT, Federal Highway Administration)*  
1    2    3    4    5    do not know

*Knowledge of revenue agencies*  
1    2    3    4    5    do not know

*Adequacy of long term revenue strategy*  
1    2    3    4    5    do not know

*Adequacy of strategy implementation*  
1    2    3    4    5    do not know

Comments:

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### 3)    **COMMUNICATIONS**

*Executive Director's image outside Executive Committee, Regional Council and Staff*  
1    2    3    4    5    do not know

*Involvement of Executive Committee and Regional Council in image of MAG*  
1    2    3    4    5    do not know

*Adequacy of national networking*  
1    2    3    4    5    do not know

*Rapport/relationships established with member agencies*  
1    2    3    4    5    do not know

*Rapport/relationships established with business community*  
1    2    3    4    5    do not know

*Rapport/relationship with Governor's Office*  
1    2    3    4    5    do not know

*Rapport/relationship with Legislature*  
1    2    3    4    5    do not know

Comments:

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**4) ADMINISTRATION**

*Keeping all areas of work – program and administration – on track and in balance*

1      2      3      4      5      do not know

*Identifying organizational weakness and needs, and developing strategies to address them*

1      2      3      4      5      do not know

*Developing clear, thoughtful, and functional organizational policies*

1      2      3      4      5      do not know

Comments:

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**5) PROGRAM PLANNING AND IMPLEMENTATION**

*Quality of project ideas*

1      2      3      4      5      do not know

*Plan development and clarity*

1      2      3      4      5      do not know

*Adherence to plan during the year*

1      2      3      4      5      do not know

*Monitoring and evaluation of progress*

1      2      3      4      5      do not know

*Quality of organization's work*

1      2      3      4      5      do not know

*Organizational accomplishments*

1      2      3      4      5      do not know

Comments:

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**6) PROGRAM ACTIVITIES**

*Effectiveness of work with member agencies*

1      2      3      4      5      do not know

*Effectiveness in getting member agencies to work together*

1      2      3      4      5      do not know

*Effectiveness in assessing member agency needs*

1      2      3      4      5      do not know

*Extent of participation in all programs*

1      2      3      4      5      do not know

Comments:

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**7) REGIONAL COUNCIL AND EXECUTIVE COMMITTEE**

*Communication with Regional Council*

1      2      3      4      5      do not know

*Communication with Executive Committee*

1      2      3      4      5      do not know

*Seeking and abiding by Regional Council's decisions*

1      2      3      4      5      do not know

*Responsiveness to Regional Council and Executive Committee requests*

1      2      3      4      5      do not know

Comments:

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**8) STAFFING**

*Quality of staff*

1      2      3      4      5      do not know

*Motivation of staff*

1      2      3      4      5      do not know

*Success in getting staff to work together effectively*

1      2      3      4      5      do not know

Comments:

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**9) FINANCIAL MANAGEMENT**

*Adequacy of financial records*

1      2      3      4      5      do not know

*Adherence to budget*

1      2      3      4      5      do not know

*Wisdom of spending and asset management choices*

1      2      3      4      5      do not know

*Adequacy of reporting to staff, Executive Committee and Regional Council*

1      2      3      4      5      do not know

*Compliance with government requirements*

1      2      3      4      5      do not know

Comments:

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**10) INDIVIDUAL SKILLS AND PRACTICES**

*Work hours and habits, and use of time*

1      2      3      4      5      do not know

*Writing ability*

1      2      3      4      5      do not know

*Professional development activities*

1      2      3      4      5      do not know

*Speaking ability*

1      2      3      4      5      do not know

*Personal style and impression*

1      2      3      4      5      do not know

*Accomplishment of professional and career goals*

1      2      3      4      5      do not know

*Use of staff and Regional Council members to complement skills and compensate for weaknesses*

1      2      3      4      5      do not know

Comments:

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**11) OTHER**

*Specify the one area in which commendation should be given for good performance:*

*Specify the one area in which change or improvement is needed the most:*

*Other comments or observations:*

**12) SUMMARY**

*On balance, what kind of job has the Executive Director done?*

Submitted by FIELD(title) FIELD(first) FIELD(last), FIELD(agency)

**Please Return by Friday, December 17, 2010** in the enclosed confidential envelope to:

Mayor Thomas Schoaf  
Chair, MAG Regional Council  
City of Litchfield Park  
214 W. Wigwam Blvd.  
Litchfield Park, Arizona 85340  
or fax to 623-935-5427

## Executive Director Evaluation for Regional Council

The following form lists qualities and performance, which are generally required of executive directors. Please circle the appropriate response describing the Executive Director's level of performance according to the following scale.

- 1 = excellent
- 2 = good
- 3 = adequate
- 4 = needs improvement
- 5 = unacceptable
- do not know = no basis for making a judgment

If you wish to comment, space is provided below each question to elaborate on the reason for your ranking when you think that would help explain your evaluation.

### Evaluation Topics

#### 1) **OVERALL PERFORMANCE**

*Viewed as providing a sense of direction for the organization. Takes overall responsibility for the organization's well-being. Provides leadership for programs, staff and financial planning.*

1      2      3      4      5      do not know

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#### 2) **ANNUAL BUDGET AND WORK PROGRAM**

*Possesses knowledge of Annual Budget and Work Program. Develops new revenue sources. Has well established rapport/relationships and knowledge of funding agencies, such as ADOT and the Federal Highway Administration.*

1      2      3      4      5      do not know

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**3) COMMUNICATIONS**

*Involvement of Executive Committee and Regional Council in image of MAG. Executive Director's image outside Executive Committee, Regional Council and staff. Adequacy of national networking. Rapport/relationships established with member agencies. Rapport/relationships established with business community. Rapport/relationship with Governor's Office. Rapport/relationship with Legislature.*

1      2      3      4      5      do not know

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**4) ADMINISTRATION**

*Keeps all areas of work – program and administration – on track and in balance. Identifies organizational weakness and needs, and developing strategies to address them. Develops clear, thoughtful and functional organizational policies.*

1      2      3      4      5      do not know

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**5) PROGRAM PLANNING AND IMPLEMENTATION**

*Develops quality project ideas for the organization. Plans for the organization possess clarity and are adhered to during the year. Monitors and evaluates the progress of the organization's work. Organization achieves its goals.*

1      2      3      4      5      do not know

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**6) PROGRAM ACTIVITIES**

*Works with member agencies and is effective in getting member agencies to work together. Able to assess member agency needs. Participates in all programs.*

1      2      3      4      5      do not know

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**7) REGIONAL COUNCIL AND EXECUTIVE COMMITTEE**

*Effectively communicates with Regional Council and Executive Committee. Seeks and abides by Regional Council decisions. Responsive to Regional Council and Executive Committee requests.*

1      2      3      4      5      do not know

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**8) STAFFING**

*Overall quality of staff. Ability of the Executive Director to motivate the staff. Success in getting staff to work together effectively.*

1      2      3      4      5      do not know

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**9) FINANCIAL MANAGEMENT**

*Adequacy of financial records. Adherence to budget and wisdom of spending and asset management choices. Adequacy of reporting to Executive Committee and Regional Council. Compliance with government requirements.*

1      2      3      4      5      do not know

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**10) INDIVIDUAL SKILLS AND PRACTICES**

*Serves as an effective role model to the organization for work hours and habits and use of time. Possesses effective writing and speaking ability. Participates in professional development activities. Personal style and impression is effective for the organization. Uses staff and Regional Council members to complement skills and compensate for weaknesses.*

1      2      3      4      5      do not know

**11) OTHER**

*Specify the one area in which commendation should be given for good performance:*

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*Specify the one area in which change or improvement is needed the most:*

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*Other comments or observations:*

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**12) SUMMARY**

*On balance, what kind of job has the Executive Director done?*

1      2      3      4      5      do not know

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Submitted by FIELD(title) FIELD(first) FIELD(last), FIELD(agency)

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