



**Maricopa County**  
Air Quality Department

Number: PP-2012-XXX

Title: **DRAFT Supplemental Environmental Projects**

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Review Date:

Approved by:

**William D. Wiley, Director**

**I. Purpose**

The purpose of this policy is to establish a framework within which proposals for Supplemental Environmental Projects (SEPs) may be considered and which are in lieu of penalties assessed through an enforcement action. In addition, proposals for SEPs offered by third-parties may be evaluated and placed on a listing of pre-approved SEPs. This policy is intended to be fully consistent with Arizona Revised Statutes §49-117:

“49-117. Supplemental environmental project; requirements; nexus

A supplemental environmental project that is initiated or accepted by the department shall comply with this section, shall advance at least one of the objectives of the environmental statutes that are the basis of the enforcement action and shall have an adequate nexus. A nexus exists only if any of the following apply. The proposed project:

1. Is designed to reduce the likelihood that similar violations will occur in the future.
2. Reduces the adverse impact to public health or the environment to which the violation contributes.
3. Reduces the overall risk to public health or the environment potentially affected by the violation.”

**II. Statement of Policy**

Maricopa County Air Quality Department (MCAQD) will, where appropriate and feasible, accept SEPs in lieu of fines paid directly to the department. This policy identifies: categories and criteria that projects must meet to be considered as and the approval process for SEPs, the penalty mitigation appropriate for a particular SEP, and the terms and conditions under which they may become part of a settlement. The department’s position is that it is in the public interest for SEPs to be an option in enforcement settlements and that they may be funded, in whole or in part, by respondents. Recognizing the potential cost and effort to develop a SEP concept, the department believes respondents may be more likely to include a SEP in a settlement agreement if they can choose from a list of pre-approved SEPs. This policy does not alter procedures or other requirements following approval of an enforcement settlement by the Director.

### III. Definitions

- A. **Nexus** means a clear linkage between two or more ideas or concepts. For the purposes of this policy, it is the linkage between the actual or potential environmental and public health impacts of a violation of law and benefits of a SEP as defined in A.R.S. §49-117.
- B. **Regulated Party** means the entity that is subject to regulation under rules issued by Maricopa County.
- C. **Respondent** means the recipient of an enforcement action issued by the department.
- D. **Small Business** means as a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees OR which has gross annual receipts of less than four million dollars in its last fiscal year (A.R.S. § 41-1001(14)).
- E. **Supplemental Environmental Project (SEP)** means an environmentally beneficial project a respondent agrees to undertake in settlement of an enforcement action that the respondent is not otherwise legally required to perform.
- F. **Third-party SEP Proposal** means a Supplemental Environmental Project that is proposed by a qualified tax-exempt 501(c)(3) non-profit or government organization to be funded by a respondent.

### IV. SEP Applicability

The following factors shall be considered to determine if a proposed SEP is appropriate and feasible:

- A. Information detailing the respondent's compliance history and demonstrating the capacity to successfully and promptly complete the project must be examined. For example, a respondent who is a repeat offender may be a less appropriate candidate for a SEP than a first-time offender, since a repeat offender has already demonstrated difficulty with or unwillingness to meet environmental requirements. In addition, a respondent who exhibits a lack of cooperation, fails to make efforts to come into compliance, misses deadlines during the negotiation process, or is unresponsive (e.g., fails to respond to requests for information, return phone calls, or respond to emails) may be an inappropriate candidate for a SEP.
- B. The proposed SEP must have a nexus as described in A.R.S. §49-117:
  - 1. Designed to reduce the likelihood that similar violations will occur in the future;
  - 2. Reduce the adverse impact to public health or the environment to which the violation contributes; or
  - 3. Reduce the overall risk to public health or the environment potentially affected by the violation.
- C. The proposed SEP fits under at least one of the five SEP categories identified in Section V, below.
- D. The proposed SEP cannot include any activity or project that the regulated party is otherwise legally required to perform.

- E. The proposed SEP will be performed within Maricopa County.
- F. Implementation of the specific proposal has not commenced prior to department review and approval to proceed. The proposal may be a discreet project or part of a phased or ongoing project or program.
- G. The proposed SEP is not designed primarily to satisfy a department statutory obligation or another regulatory agency's obligation.
- H. State statute does not prohibit the expenditure of county resources on a particular activity. A proposal that appears to circumvent that prohibition will be rejected.
- I. A SEP proposal may not provide funds to support the regulatory operational activities of the department. However, funds may be directed to related programs such as educational outreach products; e.g., educational brochures, production of educational videos, etc.

**V. Supplemental Environmental Project Categories**

A SEP proposal must fall into at least one of the following five SEP categories:

**A. Pollution Prevention**

A pollution prevention project reduces or eliminates pollution before generation. This includes any practice that reduces the amount of any pollutant being released into the ambient air, prior to pollution control.

*Examples:* Purchase and install solar panels at schools. Conduct energy audits and weatherize school buildings. Change products being used in unregulated processes, such as solvents, adhesives or cleaning liquids that are office or for janitorial supplies, with low-or no-VOC alternatives.

**B. Pollution Reduction**

A pollution reduction project reduces or eliminates pollution after generation through an approach that applies containment techniques or pollution control.

*Examples:* Reduce dust and particulate matter from unpaved, dirt, or gravel surfaces. Implement a portable gas can replacement program to reduce volatile organic compounds (VOC) emissions. Purchase and install truck stop electrification technology. Replace older diesel buses with alternative fueled or clean-diesel buses.

**C. Environmental Compliance Promotion/Research**

An environmental compliance promotion/research project helps identify new ways to achieve or maintain compliance with applicable statutory and regulatory requirements, or go beyond compliance by reducing the generation or release of pollutants beyond legal requirements. These SEPs are acceptable only where the project is focused on the same pollutant involved in the violation and where compliance by other members of the regulated community would be advanced by the proposed project. Examples include:

1. Environmental compliance promotion provides training, outreach, technical support or information to other members of the regulated community.

2. Environmental research collects baseline environmental data to be used in research directed at reducing risks to public health and the environment, or develops new pollution control technologies that could be used to reduce the generation or release of air pollutants beyond legal requirements.

*Examples:* Produce a seminar directly related to correcting widespread or prevalent violations within a specific regulated industry. Develop a new coating technology that reduces generation or release of VOC emissions. Develop an informational DVD to inform sources how to prevent common violations within a specific regulated industry.

D. Public Health

A public health project provides diagnostic, preventative or remedial health care related to the actual or potential damage to human health to which the violation may have contributed. Public health SEPs are acceptable only where the primary benefit of the project is the population that was harmed or put at risk by the violation.

*Examples:* Collect and analyze epidemiological data, conduct medical examinations of potentially affected persons, perform health screenings.

E. Assessments and Environmental Management Systems

Assessments identify opportunities to significantly reduce emissions and improve environmental performance at a facility. Pollution prevention assessments are allowed if they are not otherwise required as injunctive relief and the respondent agrees to provide the department with a copy of the report documenting the assessment.

1. Pollution prevention assessments are systematic, internal reviews of specific processes and operations designed to identify and provide information about opportunities to reduce the generation of air pollutants being released into the ambient air, prior to treatment, regardless of whether the pollutants are emitted from, or upstream or downstream of, the source at which the assessment is being conducted. This may include evaluation of equipment, processes and operations, materials substitution, conservation of energy or other resources, and waste reduction. To be eligible for SEPs, such assessments must be conducted using a recognized pollution prevention assessment procedure to reduce the likelihood of future violations.
2. Environmental Management Systems (EMS) are documented procedures for cataloguing all applicable environmental requirements and assuring compliance with those requirements. An EMS provides schedules for regular review of operations that compare practices, procedures and documentation against applicable regulatory requirements and alert staff and managers of regulatory deadlines (e.g., reporting, permit renewal, control requirements). It should also document reporting requirements and provide methods for verifying compliance with those requirements. It may be a manual, computer software, or both. If implemented for the respondent, the EMS shall include standards and procedures that address environmental stewardship beyond compliance, and acquire and maintain for a minimum of 5 years ISO 14000 certification,

## VI. SEP Proposal and Submittal

### A. In General

The respondent should notify the department of any interest in pursuing a SEP early in the settlement negotiation process and submit a completed Respondent SEP application no later than 30 calendar days following the department's initial settlement offer. All proposed SEPs must provide sufficient information to demonstrate that the project meets all applicable requirements listed in this policy.

A SEP proposal may be submitted by a respondent to an enforcement action (these may be developed by a contractor for the respondent) or by an independent third-party government or non-profit organization. A SEP may be developed by a respondent as a unique proposal intended to fulfill the criteria contained in this policy as well as meeting the specific needs or preferences of the proposing entity. A SEP may be proposed by a third-party to provide a ready-made SEP that a respondent may elect to pursue and avoid the costs associated with SEP development. The department will maintain a list of pre-approved SEP concepts from which a respondent may opt to select in lieu of developing their own unique SEP. If the SEP is appropriately structured, multiple parties may participate in funding a SEP.

A SEP will be restricted to not more than 80% of the agreed upon penalty and a penalty must be at least \$12,500 to be eligible for a SEP. Penalty payment shall be for the total of the penalty less estimated cash payments for implementation of the SEP. I.e., no penalty mitigation may be taken for in-kind costs borne by the respondent.

### B. Third Party SEPs

Only qualified tax-exempt 501(c)(3) non-profits or government organizations are eligible to propose, receive and administer SEP funds for third-party SEP proposals. A proposing organization must clearly state in the application that it has the capability to implement and complete the SEP project, if funded.

The SEP proposal application must provide basic information about the proposing organization, a description of previous history in administering SEP or grant funds (in any jurisdiction), and contain a project budget and other detailed information about the proposed project. The department may provide an opportunity for the submittal of supplemental information needed to consider the proposal.

Approved third party SEPs will be maintained in a "SEP Library," which will be available for public viewing on the department web page. The SEP Library will initially be populated through a publicized, open solicitation, and refreshed at least biennially through an open solicitation process. New third party SEP proposals, however, may be submitted to the department at any time.

### C. Application Forms

Proposed projects shall be submitted for the department review using the Respondent or Third Party SEP application forms contained in Appendices A and B, respectively.

## **VII. Limitations on Involvement by the Department**

- A. The department shall not play any role in managing or controlling funds that may be set aside or escrowed for performance of a SEP, nor shall any other division of county government.
- B. The department shall not manage or administer the SEP. However, the department may conduct oversight to ensure that a project is implemented pursuant to the provisions of the Order of Abatement by Consent (OAC) and must have legal recourse if the SEP is not adequately performed.
- C. A SEP may be disapproved where the department determines that the time and resources it must dedicate to project oversight are overly burdensome. The factors that shall be considered in determining whether a SEP is overly burdensome are: time required, staff workload, length of the proposed project, technical complexity of the project; and the complexity of department oversight.

## **IX. SEP Review Process**

### **A. Review Committee for Third-Party SEPs**

An independently appointed SEP Review Committee will evaluate third party SEP proposals to determine whether the proposals meet the requirements of this policy and make recommendations to the director regarding approval or disapproval of the SEPs for implementation and inclusion on the list of preapproved SEP concepts, as applicable. The recommendations shall address the feasibility, environmental benefit and likelihood of successful implementation for each proposal.

The committee membership shall be from 5 to 9 people, and include members with expertise in budgeting and finance, environmental benefit estimation, sustainability, public health, emissions control technologies, regulatory compliance management, and public outreach and participation.

The committee shall be convened on an as-needed basis.

### **B. Review Process and Notification**

After receipt of a SEP application, the department will review the application for completeness and to determine whether the proposed SEP meets all applicable requirements listed in this policy. The department may also require financial information verifying the applicant's ability to complete the SEP or any other additional information deemed necessary to evaluate the SEP proposal. Complete proposals will be forwarded to the SEP Review Committee for evaluation.

The director shall act on the recommendations of the Review Committee within 15 work days, and the decision of the director shall be final.

For SEPs receiving approval for implementation by or on behalf of a respondent, the department will:

1. Notify the applicant of any modifications to the proposed SEP needed prior to inclusion of the SEP in an OAC;
2. Identify the amount of the penalty mitigation that may be granted in consideration of performance of the SEP; and,
3. For SEPs implemented by respondents, identify the provisions required to be included in the OAC for department approval of the SEP (e.g., project milestones, deliverables, reporting requirements, penalties for failure to perform, other compliance provisions, etc.).

In the event a SEP is denied, the department shall provide written notification of the SEP denial identifying the reasons for denial (e.g., failed to meet the SEP criteria, inadequate financial data was provided, etc.) and provide the information necessary for reconsideration, if appropriate. In the event SEP negotiations delay or threaten to delay resolution of the alleged violations through an OAC, the department may deny the SEP. Approval, or denial of a proposed SEP is at the sole discretion of the department.

## **X. Criteria for SEP Approval**

Approval of SEP concepts and proposals shall be based on:

- A. **Strength of the proposal** is judged by the clarity of its objectives, the detail of the project description and work plan, discussion of involvement of stakeholders and participants, technical and economic feasibility, and identification of potential obstacles and how they will be handled.
- B. **Capacity of the implementing organization** with respect to its experience implementing similar projects and managing grant finances and reporting. Further, the implementing organization needs to demonstrate that they have the available resources to comply with the project schedule and bring it to a successful conclusion.
- C. **Rigor and feasibility of the schedule** means the implementation schedule is sufficiently detailed and provides adequate staging and timing of tasks to be successfully completed as planned.
- D. **Adequacy of funding and detail of the budget** – Does the projected cost of the project match its scope and is the budget appropriately itemized? (See Section XII, below for details.)
- E. **Rigor of the benefits estimations** means that the appropriate metrics for gauging success are identified, calculation methods are documented and reproducible, and both metrics and methods are backed by citations to authoritative sources. Benchmarking with similar projects is encouraged where possible.
- F. **Compliance with A.R.S. §49-117** – The proposal should clearly describe how the proposed project does (for a SEP proposed by a respondent) or has the potential to (for a third party SEP) meet the nexus requirement of the statute.
- G. **Community Input** – SEPs that perform well on this factor will have been developed taking into consideration input received from the affected community. No credit should be given for this factor if the defendant/respondent did not actively participate in soliciting and incorporating public input into

the SEP. Any SEP proposal that provides services to affected communities (e.g., health assessments, assistance to a small business industry sector) shall include a plan for engaging the communities and acquiring input from them.

## **XI. Third-party SEP Selection, Authorization and Implementation**

A third-party for whom a SEP is accepted and added to the list of pre-approved SEPs must enter into an “agreement concerning SEP funds” with the department. The agreement will outline, among other things, the terms of the SEP, such as the requirements for separate accounting and reporting, and where and how the project will be performed, if funded.

If a third-party SEP is selected and funded, the implementing agency must enter into a contractual agreement with the respondent wishing to fund a pre-approved SEP. The agreement will outline, among other things, the terms of the SEP, such as the requirements for separate accounting and reporting, and where and how the project will be performed, including a project plan, schedule and reporting milestones. A copy of the agreement must be provided to the department prior to receiving approval from the department to initiate the SEP project.

In order to maintain transparency in financial transactions, a separate account is required and SEP funds cannot be comingled with other funds. No funds will be provided from Maricopa County. All SEP funds will be paid directly to the SEP provider from the respondent to an enforcement action issued by the department that elects to participate in a SEP. Administrative costs to perform the SEP are allowed but may not exceed 5% of total project costs. All specific expenditures for the SEP will be itemized in the pre-approved budget contained in the SEP proposal. No variance from the pre-approved SEP proposal budget is allowed.

A respondent seeking to conduct a pre-approved SEP is expected to select a SEP project from the pre-approved list and, independent of the department, reach an agreement with the third-party to conduct the SEP. Implementation of the SEP must be preauthorized by the department.

An organization making application for, or with department approval for a Third-party SEP, is not allowed to solicit recipients of department enforcement actions. Contact unsolicited by the enforcement action recipient with the intent to encourage selection of a SEP proposal will result in removal of the SEP proposal from the list of pre-approved SEPs.

Third-party administrators of approved SEPs that have been funded and are underway are required to submit progress reports quarterly unless otherwise scheduled when the SEP proposal is funded. Progress reports will provide the information specified in Section XIV Respondent Reporting Requirements, below. The performance periods are January–March, with a report due in May; April–June, with a report due in August; July–September, with report due in November; and October–December, with a report due in February.

A final report summarizing the overall conduct of the SEP, deliverables and results achieved is required within 30 calendar days of completion of the SEP. Non-submittal of a final SEP report will

render the proposing organization ineligible for future SEPs, and may reduce the amount of offset allowed for completion of the SEP.

All reports shall be submitted to both the respondent and the MCAQD Director.

## **XII. Evaluation of Project Costs**

A detailed estimate of project costs shall be required as part of the respondent's SEP application. The department will use its discretion in determining the level and type of detail required for a project proposal. It is expected that the greater the complexity of a project and its costs and benefits, the project proposal will contain a commensurately greater amount of description/justification. Only reasonable and necessary expenses to be incurred by the respondent in performing the SEP can be included in the project cost.

A. Costs that may be considered include:

1. Capital costs, *e.g.*, purchase of equipment or buildings;
2. One-time non-depreciable costs, *e.g.*, purchasing new portable gas cans for a replacement program or developing a compliance promotion seminar; and,
3. Annual operation costs minus annual savings, *e.g.*, labor, water, raw materials, and power.

B. Only contracted labor or overtime labor by the respondent's employees will be allowed in project costs.

C. No credit will be given for volunteer labor, labor by employees during normal work hours or for administrative costs accrued by the respondent.

D. Costs identified in the application and in the progress reports must be adequately documented. Documentation required may include, but is not limited to, invoices, contracts, proposals/bids, mileage records, billing records, telephone bills and other documentation that verifies the expenditure amount and appropriateness to the SEP.

E. Out-of-pocket expenses incurred by the respondent in performing the SEP may not be used as a deduction or business expense on any form of tax return. Equipment installations are not eligible for tax exemption or credit certification as pollution control facility or pollution control equipment under Arizona tax laws (ARS Title 43, Chapter 10, Article 5 and Chapter 11, Articles 3 and 6).

## **XIII. Documentation of SEPs in Orders of Abatement**

The type and scope of each project must be explicitly described in the signed OAC, and the approved SEP proposal referenced in and attached to the OAC. The SEP description shall include:

- A paragraph describing the purpose, methods and expected results of the SEP;
- Start and end dates;
- Deliverables;

- Name, title and contact information for the representative of the respondent responsible for managing and reporting on the SEP;
- Name, title and contact information for the MCAQD contact for receiving reports and all other matters related to the SEP and its implementation; and
- Terms, including stipulated penalties for failure to perform, or if the SEP is not completed as required.

The OAC will describe the specific actions to be performed by the respondent and provide for a reliable and objective means to verify that the respondent has completed the project in a timely manner.

The OAC will contain a requirement that the respondent submit periodic progress reports and a final report to department.

The OAC will stipulate that whenever the respondent publicizes a SEP or the results of a SEP, it will state in a legible and prominent manner that the project is being undertaken as part of the settlement of an enforcement action.

#### **XIV. Respondent Reporting Requirements**

A SEP must contain timely and defined milestones/deliverables for implementing the project. To ensure that the respondent meets project milestones/deliverables, written progress and final reports are required to be submitted to the department.

##### **A. Progress Reports**

Progress reports will provide the status of project milestones/deliverables and itemize all costs with supporting documentation such as receipts and photographs. Progress reports may be monthly or quarterly and the schedule of reporting will be determined at the time the SEP is formally incorporated within an OAC.

##### **B. Final Report**

No later than 30 calendar days after completion of the SEP, the respondent shall submit a final report documenting completion of project milestones/deliverables. The report shall include the following:

1. A detailed description of actual out-of-pocket expenses incurred by the respondent in performing the SEP. Documentation required may include, but is not limited to, invoices, contracts, contract proposals/bids, mileage records, billing records, telephone bills and other documentation that verifies the expenditure amount and appropriateness to the SEP
2. Actual quantified benefits to the environment achieved from the project.
3. A written certification of completion of the SEP demonstrating that all SEP activities specified in the OAC have been completed in accordance with the terms and conditions of the OAC. The certification must be signed by the respondent's highest ranking local official.

Onsite visits by the department to verify SEP completion may be performed for selected projects.

## **XV. SEP Compliance**

A respondent is responsible and liable for ensuring that a SEP is completed satisfactorily. The department, in its sole discretion, will determine whether the SEP has been satisfactorily completed (i.e., pursuant to the terms contained in the OAC) and whether the respondent has made good faith, and timely efforts to implement the SEP.

A respondent may not transfer liability to a third party, including a contractor or consultant retained to implement a SEP.

If the respondent fails to expend all the SEP costs outlined in the OAC, the remaining balance shall be paid to the department as a penalty amount.

If the respondent does not comply satisfactorily with the terms of the SEP, the respondent shall be liable for stipulated penalties. Stipulated penalties shall be:

- A. Identified for both failure to complete the project and for missed deadlines to ensure the SEP is performed as required and in a timely manner;
- B. Due within 30 calendar days upon request in writing from department; and
- C. Established as follows:
  - a. If the SEP is not completed to the satisfaction of the department for any reason other than a force majeure event, a stipulated penalty between 75 and 150 percent of the amount by which the penalty was mitigated on account of the SEP shall be required.
  - b. Penalties for missed deadlines, including submittal of required reports, shall be assessed at an amount less than or equal to \$100 per day for each day beyond the required completion date until the requirement is met.

## **XVI. Department Discretion; Limitations**

Whether the department decides to accept a proposed SEP as part of a settlement, and the amount of any penalty mitigation that may be given for a particular SEP, is purely with the discretion of the department. Even though a project appears to satisfy all of the provisions of this policy, the department may decide for one or more reasons that a SEP or specific SEP proposal is not appropriate (e.g., the cost of reviewing a SEP proposal is excessive, the oversight costs of the SEP may be too high, the respondent may not have the ability or reliability to complete the proposed SEP, or the deterrent value of the higher penalty amount outweighs the benefit of the proposed SEP).

This policy is intended solely for the guidance of the department personnel. It is not intended and cannot be relied upon to create rights, substantive or procedural, that are enforceable by any person. The approval of any SEP shall not be considered a precedent for any subsequent SEP.

The department reserves the right to act at variance with all or part of this policy in the event that its application is deemed inappropriate.

## **XVII. References**

Issuance of Final Supplemental Environmental Projects (SEPs) Policy, April 10, 1998, United States Environmental Protection Agency [www.epa.gov/compliance/resources/policies/civil/seps/fnl-sup-herm-mem.pdf](http://www.epa.gov/compliance/resources/policies/civil/seps/fnl-sup-herm-mem.pdf)

Interim Guidance for Community Involvement in Supplemental Environmental Projects, June 17, 2003, United States Environmental Protection Agency [www.epa.gov/compliance/resources/policies/civil/seps/sepcomm2003-intrm.pdf](http://www.epa.gov/compliance/resources/policies/civil/seps/sepcomm2003-intrm.pdf)

Final Agency-Wide Supplemental Environmental Projects Policy, May 9, 2008, Colorado Department of Public Health and Environment [www.cdphe.state.co.us/oeis/sep/docs/CDPHESEPPolicy.pdf](http://www.cdphe.state.co.us/oeis/sep/docs/CDPHESEPPolicy.pdf)

Policy on Supplemental Environmental Projects, February 21, 2007, Massachusetts Department of Environmental Protection [www.mass.gov/dep/service/seppol07.pdf](http://www.mass.gov/dep/service/seppol07.pdf)

Supplemental Environmental Projects (SEPs): Putting Fines to Work Closer to Home (Guidance Document), March 2009, Texas Commission on Environmental Quality [www.tceq.texas.gov/publications/gi/gi-352.html](http://www.tceq.texas.gov/publications/gi/gi-352.html)

Supplemental Environmental Projects Web pages, [www.tceq.texas.gov/legal/sep/](http://www.tceq.texas.gov/legal/sep/)

## **Appendix A**

# **Application for Approval of a Supplemental Environmental Project Completed by a Respondent**



**Maricopa County Air Quality Department**  
 1001 N. Central Ave, Suite 600  
 Phoenix, AZ 85004-1944  
 Phone: (602) 372-1465  
 Fax: (602) 506-6179  
 Email: SEPinfo@mail.maricopa.gov

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## RESPONDENT CUSTOM SEP APPLICATION

### RESPONDENT INFORMATION

Name Respondent: (Full legal name)	Application Date:
Business Address:	City, State, and Zip Code
Mailing Address (if different from business address):	City, State, and Zip Code
Contact Person and Phone Number:	Fax Number: E-Mail Address:

Previous SEP performance history or grant and funds management experience Please tell us about any applicable previous experience managing funds and performing projects. If a contractor will be implementing a significant portion of the project, please provide information their experience and qualifications.

Does your organization carry comprehensive general liability insurance? <input type="checkbox"/> Yes <input type="checkbox"/> No Type of organization: For-profit ____ Not-for-profit* ____ Government ____ *If not-for-profit, please provide a copy of your 501c(3) exemption	Is your organization willing to maintain a separate bank account for SEP funds? <input type="checkbox"/> Yes <input type="checkbox"/> No
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### RESPONDENT COMPLIANCE HISTORY

Provide a three year chronology of all notices of opportunities to correct (NOCs or OTCs) and notices of violation (NOVs) issued under any and provisions of A.R.S. Title 49.

Date issued	Applicable statute and description of NOC/OTC or NOV	Current Status or Date Resolved

**Additional Comments**

**NATURE OF ENFORCEMENT ACTION**

Provide a summary of the enforcement action being taken against the facility.

Penalty Amount: \$

SEP Amount: \$

**DESCRIPTION OF THE PROPOSED SEP**

Project Name:

Estimated Total Project Cost: \$

Minimum amount of contribution your organization will accept: \$

- Pollution Prevention       Pollution Reduction       Compliance Promotion/Research       Public Health
- Assessments/Environmental Management Systems

**DESCRIPTION OF THE PROPOSED SEP (continued)**

a. General Description Provide a brief general description of the SEP and its purpose, similar projects that have been implemented by your organization or others, why it is needed, and how it complies with the nexus requirements of [A.R.S. §49-117](#) (See Appendix). Include photographs, if applicable.

1. Description:

2. Nexus and compliance with A.R.S. §49-117:

b. Project Implementation Describe how the project will be implemented, including: project planning; specific technology, operation or process changes, if applicable; and target population(s) and how they will be engaged.

Specific location of SEP (Please provide a detailed description, including maps, if available):

Property Owner, if applicable:

Does the proposed SEP involve correction of a violation that was caused by or for which applicant is responsible for correcting?

Yes    No

If yes, how?

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Will the project use applicant's personnel for labor or contract labor? *Please specify how:*

Will the applicant be willing to complete all portions of the SEP, regardless of whether the SEP costs more than anticipated?  Yes  No

**EXPECTED ENVIRONMENTAL BENEFIT**

Explain in as much detail as possible the expected environmental benefits of this project and quantify the environmental benefits to the extent practical. Even if the benefits seem obvious (e.g. reducing pollution) you still must clearly state how the implementation of the SEP project will result in measurable environmental benefits. *For pollution prevention or reduction projects, quantify the amount of each pollutant that is expected to be reduced beyond the level required for environmental compliance. For all quantified environmental benefits, provide a citation(s) to the source(s) used for the calculation method (e.g., AP-42, EPA publication, ASTM, etc.) For all other types of projects, quantify project deliverables (e.g. the number of participants, programs offered, etc.)*

**PROJECT SCHEDULE**

Projected Start and End Dates or Duration:

Project tasks and schedule or time frames if there are no specified starting and ending dates. Identify which tasks need to be completed prior to commencing any subsequent tasks, any overlapping tasks and any close-out activities for completing the project.

	Task name and description	Projected start and end date, or duration
1.		
2.		
3.		
4.		
5.		
6.		
7.		

**PROJECT COSTS (Use FEMA rates for equipment and labor)**

Only contracted labor or overtime labor by the applicant’s employees will be considered in calculating costs. No credit will be given for volunteer labor, labor by employees during normal work hours or for administrative costs. See <http://www.fema.gov/government/grant/pa/eqrates.shtm> for FEMA schedule of equipment rates.

*The information in this table is solely for illustration. Double click on the table to overwrite the sample data.*

Description	Quantity	Unit	Unit Cost	Total Cost for this item
Rent 2 tractors for 4 hours each @ \$35.00/hour, for hauling loads	8	hour	\$35.00	\$280.00
Rent chipper for 1 day @ \$87.00/day, for mulching limbs	1	day	\$87.00	\$87.00
Employ 2 Laborers for 6 hours each at overtime rate of \$20.00/hour	12	hour	\$20.00	\$240.00
Employ 1 supervisor for 6 hours at overtime rate of \$40.00/hour	6	hour	\$40.00	\$240.00
Rent 2 roll-off bins (includes disposal fees) @ \$3000.00/day	2	day	\$3,000.00	\$6,000.00
4 signs for on-site signage	4	each	\$50.00	\$200.00
Place event public notices in 2 newspapers	2	newspaper notices	\$150.00	\$300.00
Fees for 2 drivers for 6 hours each @ \$50.00/hour	12	hour	\$50.00	\$600.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
<b>Total Cost</b>				<b>\$7,947.00</b>

**CERTIFICATION**

I certify on behalf of the applicant that the applicant:

1. Has not previously committed to perform this project including a previous obligation to complete the proposed SEP:
  - a. under any applicable local, state, or federal regulations, consent agreement, or administrative order that would require implementation of this project or any part of this project; and
  - b. as a part of the U.S. environmental Protection Agency's Project XL or any other incentive or regulatory flexibility program.
2. Will fund or be the party undertaking the proposed project.
3. Has not previously budgeted or acquired funding for the project prior to its approval by MCAQD, and
4. Will not receive duplicative funding by grants or donations from any source for this project.

Further, I certify that the information contained in this document is true and correct and that the SEP is being undertaken solely as part of the settlement of the enforcement action.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

DRAFT

**Submit application to:**

**MCAQD Policy Office  
1001 N. Central Avenue, Suite 500  
Phoenix, AZ 85004-1944**

**Phone: (602) 372-1465  
Fax: (602) 506-6179  
Email: SEPinfo@mail.maricopa.gov**

**SEP Application Appendix**

**A.R.S. §49-117. Supplemental environmental project; requirements; nexus**

A supplemental environmental project that is initiated or accepted by the department shall comply with this section, shall advance at least one of the objectives of the environmental statutes that are the basis of the enforcement action and shall have an adequate nexus. A nexus exists only if any of the following apply. The proposed project:

1. Is designed to reduce the likelihood that similar violations will occur in the future.
2. Reduces the adverse impact to public health or the environment to which the violation contributes.
3. Reduces the overall risk to public health or the environment potentially affected by the violation.

## **Appendix B**

### **Application for Pre-approval of a Supplemental Environmental Project Completed by a Third-Party (Not-for-Profit Organization or Governmental Entity)**



**Maricopa County Air Quality Department**  
 1001 N. Central Ave, Suite 600  
 Phoenix, AZ 85004-1944  
 Phone: (602) 372-1465  
 Fax: (602) 506-6179  
 Email: [SEPinfo@mail.maricopa.gov](mailto:SEPinfo@mail.maricopa.gov)

**DRAFT**

## SEP IDEA LIBRARY APPLICATION

### APPLICANT INFORMATION

Name of Organization/Applicant: (Full legal name)	Application Date:
Business Address:	City, State, and Zip Code
Mailing Address (if different from business address):	City, State, and Zip Code
Contact Person and Phone Number:	Fax Number:  E-Mail Address:
Previous SEP performance history or grant and funds management experience (Please tell us about any applicable previous experience managing funds and performing projects):	
Does your organization carry comprehensive general liability insurance? <input type="checkbox"/> Yes <input type="checkbox"/> No Type of organization: For-profit ____ Not-for-profit* ____ Government ____  *If not-for-profit, please provide a copy of your 501c(3) exemption	Is your organization willing to maintain a separate bank account for SEP funds? <input type="checkbox"/> Yes <input type="checkbox"/> No

### DESCRIPTION OF THE PROPOSED SEP

Project Name:	
Estimated Total Project Cost: \$	Minimum amount of contribution your organization will accept: \$
<input type="checkbox"/> Pollution Prevention <input type="checkbox"/> Pollution Reduction <input type="checkbox"/> Compliance Promotion/Research <input type="checkbox"/> Public Health  <input type="checkbox"/> Assessments/Environmental Management Systems	

**DESCRIPTION OF THE PROPOSED SEP (continued)**

a. General Description Provide a brief general description of the SEP and its purpose, similar projects that have been implemented by your organization or others, why it is needed, and how it complies with the nexus requirements of [A.R.S. §49-117](#) (See Appendix). Include photographs, if applicable.

1. Description:

2. Nexus and compliance with A.R.S. §49-117:

b. Project Implementation Describe how the project will be implemented, including: project planning; specific technology, operation or process changes, if applicable; and target population(s) and how they will be engaged.

Specific location of SEP (Please provide a detailed description, including maps, if available):

Property Owner:

Does the proposed SEP involve correction of a violation that was caused by or for which applicant is responsible for correcting?

Yes  No

If yes, how?

Will the project use applicant's personnel for labor or contract labor? *Please specify how:*

Will the applicant be willing to complete all portions of the SEP, regardless of whether the SEP costs more than anticipated?  Yes  No

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**EXPECTED ENVIRONMENTAL BENEFIT**

Explain in as much detail as possible the expected environmental benefits of this project and quantify the environmental benefits to the extent practical. Even if the benefits seem obvious (e.g. reducing pollution) you still must clearly state how the implementation of the SEP project will result in measurable environmental benefits. *For pollution prevention or reduction projects, quantify the amount of each pollutant that is expected to be reduced beyond the level required for environmental compliance. For all quantified environmental benefits, provide a citation(s) to the source(s) used for the calculation method (e.g., AP-42, EPA publication, ASTM, etc.) For all other types of projects, quantify project deliverables (e.g. the number of participants, programs offered, etc.)*

**PROJECT SCHEDULE**

Projected Start and End Dates or Duration:

Project tasks and schedule or time frames if there are no specified starting and ending dates. Identify which tasks need to be completed prior to commencing any subsequent tasks, any overlapping tasks and any close-out activities for completing the project.

	Task name and description	Projected start and end date, or duration
1.		
2.		
3.		
4.		
5.		
6.		
7.		

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**PROJECT COSTS (Use FEMA rates for equipment and labor)**

Only contracted labor or overtime labor by the applicant’s employees will be considered in calculating costs. No credit will be given for volunteer labor, labor by employees during normal work hours or for administrative costs. See <http://www.fema.gov/government/grant/pa/eqrates.shtm> for FEMA schedule of equipment rates.

*The information in this table is solely for illustration. Double click on the table to overwrite the sample data.*

Description	Quantity	Unit	Unit Cost	Total Cost for this item
Rent 2 tractors for 4 hours each @ \$35.00/hour, for hauling loads	8	hour	\$35.00	\$280.00
Rent chipper for 1 day @ \$87.00/day, for mulching limbs	1	day	\$87.00	\$87.00
Employ 2 Laborers for 6 hours each at overtime rate of \$20.00/hour	12	hour	\$20.00	\$240.00
Employ 1 supervisor for 6 hours at overtime rate of \$40.00/hour	6	hour	\$40.00	\$240.00
Rent 2 roll-off bins (includes disposal fees) @ \$3000.00/day	2	day	\$3,000.00	\$6,000.00
4 signs for on-site signage	4	each	\$50.00	\$200.00
Place event public notices in 2 newspapers	2	newspaper notices	\$150.00	\$300.00
Fees for 2 drivers for 6 hours each @ \$50.00/hour	12	hour	\$50.00	\$600.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
<b>Total Cost</b>				<b>\$7,947.00</b>

**CERTIFICATION**

I certify on behalf of the applicant that the applicant:

5. Has not previously committed to perform this project including a previous obligation to complete the proposed SEP:
  - a. under any applicable local, state, or federal regulations, consent agreement, or administrative order that would require implementation of this project or any part of this project; and
  - b. as a part of the U.S. environmental Protection Agency's Project XL or any other incentive or regulatory flexibility program.
6. Will fund or be the party undertaking the proposed project if it is funded.
7. Has not previously budgeted or acquired funding for the project prior to its approval by MCAQD, and
8. Will not receive duplicative funding by grants or donations from any source for this project.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

DRAFT

**Submit application to:**

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**SEP Application Appendix**

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2. Reduces the adverse impact to public health or the environment to which the violation contributes.
3. Reduces the overall risk to public health or the environment potentially affected by the violation.

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