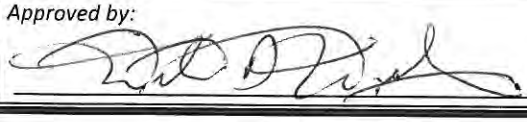
Maricopa County Air Quality Department	Number: PP-2012-003 Title: **Supplemental Environmental Projects**
Author: Ira Domsky	Issue Date: October 19, 2012 Revision Date: December 10, 2013 Review Date: October 19, 2012
Approved by: 	**William D. Wiley, Director**

I. Purpose

The purpose of this policy is to establish a framework within which proposals for Supplemental Environmental Projects (SEPs) may be considered and accepted in lieu of penalties assessed through an enforcement action. In addition, proposals for SEPs offered by third parties will be evaluated and may be placed on a listing of pre-approved SEPs. This policy is intended to be fully consistent with Arizona Revised Statutes (A.R.S.) §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 for approval as SEPs 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:** 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. **Respondent:** The recipient of an enforcement action issued by the department.

C. **Small Business:** 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)).

D. **Supplemental Environmental Project (SEP):** 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.

E. **Third party SEP Proposal:** 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 will 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. For example, a respondent who is a repeat violator may be a less appropriate candidate for a SEP than a first-time violator, since a repeat violator 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. Nexus as described in A.R.S. §49-117. The proposed SEP must meet one of the following:

1. Be 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 respondent 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, however, may be a discrete project or part of a phased or ongoing project or program.

G. The proposed SEP is not designed primarily to satisfy a statutory obligation of the department or that of any other regulatory agency.

H. State statute does not prohibit the expenditure of county resources on a particular activity. A proposal that appears to circumvent statutory prohibitions 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., development and printing of 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 replacing traditional solvents, adhesives or cleaning liquids used for general office or for janitorial purposes, 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:

1. Reduce dust and particulate matter from unpaved, dirt, or gravel surfaces.
2. Implement a portable gas can replacement program to reduce volatile organic compounds (VOC) emissions.
3. Purchase and install truck stop electrification technology.
4. 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 current

legal requirements for reducing the generation or release of pollutants. These SEPs should, but are not required to address the same pollutant(s) involved in the violation, and where compliance by other members of the regulated community would be advanced by the proposed project. Categories 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. Any research that results in the development of an invention or other potential property right (e.g., a patent, or copyrightable materials) will be the sole property of MCAQD and will be made available to the public free of charge.

Examples: Produce a seminar directly related to reducing 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 primarily benefit 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 may be acceptable as SEPs 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 cataloging 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 must include standards and procedures that address environmental stewardship beyond compliance appropriate for the size and level of sophistication of the respondent. Language describing the EMS development or improvement approach will be incorporated in the settlement agreement.

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 (See Exhibit A) no later than 30 calendar days following issuance of 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 respondent may elect to pursue a SEP proposed by a third party to avoid the costs and time associated with SEP development. The department will maintain a list of pre-approved SEP concepts (as described in Section VI. B below) from which a respondent may opt to select in lieu of developing their own 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 will 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 SEP Proposals

Only qualified tax-exempt 501(c)(3) non-profit or government organizations are eligible to propose, receive and administer SEP funds for third party SEPs. A proposing organization must clearly demonstrate in the application that it has the capability to implement and complete the SEP project, if funded. The SEP Idea Library Application form may be found in Exhibit B.

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 request supplemental information needed to consider the proposal.

Approved third party SEP proposals will be maintained in a "SEP Idea Library," which will be available for public viewing on the department web site. 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.

Further, third party SEPs may be structured as phased or modular projects, allowing multiple respondents to fund part or all the SEP.

At least biennially, the department will review all SEPs in the SEP Library for currency and feasibility. The department will consult with SEP offerors with respect to retention of their projects contained in the SEP Library. In conjunction with the biennial review, the department may issue a new call for proposals. Modifications to the SEP Library will be explicitly noted on the SEP Idea Library web page as to which projects have been completed, put on hold, or no longer available for any other reason.

VII. Limitations on Involvement by the Department

A. Neither the department nor any other division of county government will play any role in managing or controlling funds that may be set aside or escrowed for performance of a SEP.

B. The department will not manage or administer the SEP. However, the department will 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 will 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 of Third Party SEPs

Department staff will be assigned to 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 will address the feasibility, environmental benefit and likelihood of successful implementation for each proposal.

Assigned staff may enlist the assistance of external subject matter experts to evaluate the proposals. Areas of expertise that may be needed can include budgeting and finance, environmental benefit estimation, sustainability, public health, emissions control technologies, regulatory compliance management, and public outreach and participation.

B. Review Process and Notification

1. Completeness review. 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 contained in this policy. The department may also request financial or other documentation verifying the applicant's ability to complete the SEP or any other additional information deemed necessary to evaluate the SEP proposal. Complete respondent SEP proposals will be forwarded to the director for consideration by the managers and staff negotiating the settlement agreement in accordance with Section IX. C below.

2. Third party SEP proposal review. Department staff will evaluate third party SEP proposals using the criteria described in Section X. of this policy, and prepare written recommendations to the director regarding approval, remand or rejection of third party SEP proposals. The director will act on these recommendations within 15 work days, and the decision of the director will be final.

   The department will provide written notification to the offerors of all third party SEPs relative to their acceptance for inclusion in the SEP Library. For SEP proposals that are remanded or rejected, the department will provide written notification to offerors identifying the reasons for remand or rejection (e.g., failed to meet the SEP criteria, inadequate supporting data were provided, etc.). Notification on remanded SEP proposals will explain additional information needed for reconsideration and a deadline for resubmission. The director will provide written notification to offerors of resubmitted third party SEPs with respect to approval or rejection, and, if rejected, reasons for doing so. The decision of the director is final. Approved proposals will be added to the SEP Library.

C. Approval of SEPs for Inclusion in OACs

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 proposed SEP is denied, the department will provide written notification of the SEP denial identifying the reasons for denial (e.g., failed to meet the SEP criteria, inadequate supporting data were 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 proposed SEP. Approval or denial of a proposed SEP is at the sole discretion of the department.

X. Criteria for SEP Approval

Approval of SEP proposals will be based on:

A. **Strength of the proposal:** 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:** 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:** 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:** The projected cost of the project matches its scope and is the budget is appropriately itemized. (See Section XII below for details.)

E. **Rigor of the benefits estimations:** 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 will be given for this factor if the defendant/respondent did not actively solicit and incorporate public input into the SEP proposal. Any SEP proposal that provides services to affected communities (e.g., health assessments, assistance to a small business industry sector) must include a plan for engaging the communities and acquiring input from them.

XI. Third party SEP Selection, Authorization and Implementation

A respondent may propose to fund a third party project as its SEP. The third party project may either be a pre-approved SEP from the SEP Idea Library or one separately proposed by the respondent. If a third party SEP is selected and funded, the implementing agency must enter into a contractual agreement with the respondent wishing to fund the 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. Upon reaching agreement, the respondent must submit a copy of the signed contract to the department for review and inclusion of description and performance criteria in the settlement agreement as specified in Section XIII. The department will not issue an approval to the parties to initiate implementation of the project until a copy of the signed contract has been received.

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.

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 the penalty offset allowed for completion of the SEP.

All reports must be submitted to both the respondent and the director.

Onsite visits by the department to verify progress and SEP completion may be performed.

XII. Evaluation of Project Costs

A detailed estimate of project costs will 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 (A.R.S. Title 43, Chapter 10, Article 5 and Chapter 11, Articles 3 and 6).

XIII. Documentation of SEPs in OACs

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 must 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
- Other terms of agreement and performance standards.

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.
- Contain a requirement that the respondent submit periodic progress reports and a final report to department.
- 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.
- Explicitly describe stipulated penalties and the conditions under which those penalties will be assessed (e.g., failure to perform, report, or meet deadlines).

XIV. Respondent Reporting Requirements

An approved SEP must contain timely and defined milestones for implementing the project and deliverables. To ensure that the respondent meets project milestones and submits 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 and 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 (as defined in the SEP schedule), the respondent must submit a final report to the department documenting completion of project milestones and deliverables. The report must include the following:

1. A detailed description of actual expenses incurred by the respondent in performing the SEP. Documentation required may include, but is not limited to, invoices, contracts, contract proposals or 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 using the same methods employed in the SEP proposal; or, if alternative methods are used, providing a discussion of why those methods were employed and citing authoritative sources for them.
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.

XV. SEP Compliance

The respondent maintains full responsibility for completing the SEP regardless of the role of the third party. 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.

If the respondent fails to expend all the SEP costs as described in the approved SEP proposal attached to the OAC, the remaining balance must be paid to the department as a penalty amount.

If the respondent does not comply satisfactorily with the terms of the SEP, the respondent will be liable for stipulated penalties. Stipulated penalties will 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 will be required.
    b. Penalties for missed deadlines, including submittal of required reports, will be assessed at an amount less than or equal to $100 per day for each day beyond the approved 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 at the discretion of the department. Regardless of whether 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 for the department to review a SEP proposal or oversee SEP implementation is excessive, 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 estimated benefit of the proposed SEP).

This policy is intended solely for guidance of 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 will not be considered a precedent for any subsequent SEP or SEP proposal.

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 by the director.

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/fnlsup-hermn-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

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

Policy on Supplemental Environmental Projects, February 21, 2007, Massachusetts Department of Environmental Protection 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

Supplemental Environmental Projects Web pages, www.tceq.texas.gov/legal/sep/

Exhibit A

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

Maricopa County

Air Quality Department

Return completed form to:
MCAQD Policy Office
1001 N Central Ave, Suite 125, Phoenix, AZ 85004
Phone (602) 506-6702 Fax (602) 506-6179
SEPinfo@mail.maricopa.gov

RESPONDENT CUSTOM SEP APPLICATION FORM

Documents may be submitted in person at:
Maricopa County Air Quality Department1001 N. Central Ave. Suite 125, Phoenix, AZ 85004

RESPONDENT INFORMATION

Name of Respondent (Full legal name):		Application Date:	
Business Address:	City:	State:	Zip:
Mailing Address (if different from business address):	City:	State:	Zip:
Contact Person:		Contact Person Title:	
Phone Number:	Fax Number:	Email	

Previous SEP performance history or grant and funds management experience. List all applicable previous experience managing funds and performing projects. If a contractor will be implementing a significant portion of the project, provide information describing their experience and qualifications.

Does your organization carry comprehensive general liability insurance? Yes ☐ No ☐

Type of Organization: ☐ For-profit ☐ Not-for-profit* ☐ Government *If not-for-profit, attach a copy of you 501c(3) exemption

Is your organization willing to establish and maintain a separate bank account for SEP funds? Yes ☐ No ☐

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 provisions of A.R.S. Title 49.

Date Issued	Applicable statute and description of NOC/OTC or NOV	Current Status or Date Resolved		
			Add Another Row	Delete This Row

Additional information regarding the list, above:

NATURE OF ENFORCEMENT ACTION

Provide a summary of the enforcement action being taken against the respondent (include NOV number and date of issuance).

Penalty Amount:	Proposed SEP Amount:

Maricopa County

Air Quality Department

Return completed form to:
MCAQD Policy Office
1001 N Central Ave, Suite 125, Phoenix, AZ 85004
Phone (602) 506-6702 Fax (602) 506-6179
SEPinfo@mail.maricopa.gov

RESPONDENT CUSTOM SEP APPLICATION FORM

Documents may be submitted in person at:
Maricopa County Air Quality Department1001 N. Central Ave. Suite 125, Phoenix, AZ 85004

DESCRIPTION OF THE PROPOSED SEP

Project Name:

Estimated Total Project Cost:

Project Category (See Section V of SEP Policy, #PP-2012-0003):

☐ Pollution Prevention ☐ Pollution Reduction ☐ Compliance Promotion/Research ☐ Public Health

☐ Assessments/Environmental Management Systems

DETAILED DESCRIPTION OF THE PROPOSED SEP

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. Insert photographs, maps or diagrams below (or include as separate attachments):

Insert Another Diagram, Map, Photo, etc.

Remove Diagram, Map, Photo, etc.

3. 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):

Insert map

Insert another map

Remove map

Maricopa County
Air Quality Department

Return completed form to:
MCAQD Policy Office
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Phone (602) 506-6702 Fax (602) 506-6179
SEPinfo@mail.maricopa.gov

RESPONDENT CUSTOM SEP APPLICATION FORM

Documents may be submitted in person at:
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Property Owner, if applicable:

Does the proposed SEP involve correction of a violation(s) that was caused by or for which respondent is responsible for correcting?
☐ Yes ☐ No If yes, how?

Will the project use applicant's personnel for labor or contract labor? ☐ Yes ☐ No If yes, 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 Explanation:

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.)

Maricopa County

Air Quality Department

Return completed form to:
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1001 N Central Ave, Suite 125, Phoenix, AZ 85004
Phone (602) 506-6702 Fax (602) 506-6179
SEPinfo@mail.maricopa.gov

RESPONDENT CUSTOM SEP APPLICATION FORM

Documents may be submitted in person at:
Maricopa County Air Quality Department1001 N. Central Ave. Suite 125, Phoenix, AZ 85004

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	Start date	End date	Duration (days)
Remove This Row*	1.				0
		*Please note: If rows are deleted, the rows may not be renumbered until the form is saved and reopened.		Total Duration:	0

Add New Row

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.

Use the 'Add Another Row' button to add more rows.
Use the 'Remove This Row' button to remove a row. (Note that there must be at least one row. This button will not work if there is only one row in the table.)
Total costs for each item and the total project cost will be calculated by the table.
A sample table is provided following the actual project cost table.

Remove Row	Description	Qty	Unit	Unit Cost	Total Cost for this Item
Remove This Row					
	Add Another Row			Total Cost	

SAMPLE TABLE. **The information in this table is solely for illustration only.**

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

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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

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.

OFFICE USE ONLY

Received by MCAQD	Reviewed by	Date Reviewed	Disposition: ☐ Complete ☐ Approved ☐ Disapproved

Exhibit B

Application for Pre-approval of a Supplemental Environmental Project to be Completed by a Third Party (Not-for-Profit Organization or Governmental Entity) into the SEP Idea Library

Maricopa County
Air Quality Department

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SEP IDEA LIBRARY APPLICATION

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GUIDELINES TO SUBMIT PROJECT PROPOSALS FOR INCLUSION IN THE SUPPLEMENTAL ENVIRONMENTAL PROJECTS IDEA LIBRARY

The Maricopa County Air Quality Department (MCAQD) is developing a list of "ready to go" projects to be conducted by qualified tax exempt 501(c)(3) non-profit and government organizations for its Supplemental Environmental Projects (SEP) Idea Library. The SEP Idea Library is an online resource listing environmentally beneficial projects that may be voluntarily added by businesses as part of settlements of enforcement actions related to alleged air quality violations.

The MCAQD's goal is to ensure federal clean air standards are achieved and maintained for all Maricopa County residents; thus any SEPs should further this goal. SEPs are designed to protect and improve the environment and public health above and beyond compliance with applicable laws.

Projects approved for inclusion in the SEP Idea Library will be made available on MCAQD's website for consideration in future enforcement cases. Projects will remain in the SEP Idea Library for a minimum of two years from the date of submission.

The determination as to what type of SEP would be appropriate depends upon the particular enforcement action and it meeting the requirements of A.R.S. §49-117. Submission of a project idea to the MCAQD does not guarantee the project will be included as a SEP in an enforcement settlement.

When evaluating a proposed project for inclusion as a SEP in an enforcement settlement, MCAQD considers many factors as outlined in the SEP policy. The most important factors are the air quality or public health benefits expected from the project, and the relationship of the project to the underlying violation in the enforcement action. Other factors include such things as the pollutant of concern, geographic location of the proposed project, type of project, estimated cost, and length of time estimated for the project.

Five categories of projects have been identified for SEPs: pollution prevention; pollution reduction; environmental compliance promotion or research; public health; and assessments and environmental management systems.

See the SEP Policy, #PP-2012-003, for more details on the policy, the proposal review process and evaluation criteria, available at www.maricopa.gov/aq/divisions/planning_analysis/Policies.aspx.

- Project proposals may be solicited by MCAQD biennially, but will be accepted any time. All projects will be reviewed by an external review committee, which will make recommendations to the director for inclusion in the SEP Idea Library. (See sections VI.B. and IX. of the SEP Policy)

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SUPPLEMENTAL ENVIRONMENTAL PROJECT IDEA LIBRARY PROJECT PROPOSAL APPLICATION

RESPONDENT INFORMATION				
Name of Respondent (Full legal name):		Application Date:		
Business Address:		City:	State:	Zip:
Mailing Address (if different from business address):		City:	State:	Zip:
Contact Person:		Contact Person Title:		
Phone Number:	Fax Number:	Email:		

Previous SEP performance history or grant and funds management experience. List all applicable previous experience managing funds and performing projects. If a contractor will be implementing a significant portion of the project, provide information describing their experience and qualifications.

Does your organization carry comprehensive general liability insurance? Yes ☐ No ☐

Type of Organization: ☐ For-profit ☐ Not-for-profit* ☐ Government *If not-for-profit, attach a copy of you 501c(3) exemption

Is your organization willing to establish and maintain a separate bank account for SEP funds? Yes ☐ No ☐

DESCRIPTION OF THE PROPOSED SEP	
Project Name:	
Estimated Total Project Cost:	Minimum amount of contribution your organization will accept:

Project Category (See Section V of SEP Policy, #PP-2012-0003):

☐ Pollution Prevention ☐ Pollution Reduction ☐ Compliance Promotion/Research ☐ Public Health

☐ Assessments/Environmental Management Systems

DETAILED DESCRIPTION OF THE PROPOSED SEP

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, maps or diagrams, if applicable (either in the field below or as separate attachments).

1. Description:

2. Insert photographs, maps or diagrams below (or include as separate attachments):

Insert Another Diagram, Map, Photo, etc.

Remove Diagram, Map, Photo, etc.

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3. 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 [inserted below or attached separately], if available):

Insert map

Insert another map

Remove map

Property Owner, if applicable:

Will the project use applicant's personnel for labor or contract labor? ☐ Yes ☐ No If yes, 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 Explanation:

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.)*

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Project Cost Table Instructions

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SEP Application Appendix

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Received by MCAQD	Reviewed by	Date Reviewed	Disposition: ☐ Complete ☐ Approved ☐ Disapproved