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Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Karen Peters
Director

Submitted online via EPA's Central Data Exchange, State Plan Electronic Collection System (SPeCS)

April 27, 2023

Ms. Martha Guzman, Regional Administrator
U.S. Environmental Protection Agency, Region IX
Mail Code ORA-1
75 Hawthorne Street
San Francisco, CA 94105

RE: Submittal of Maricopa County Air Quality Department (MCAQD) Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits) as a Revision to the Arizona State Implementation Plan (SIP)

Dear Ms. Guzman:

The Arizona Department of Environmental Quality (ADEQ) hereby adopts and submits to the U.S. Environmental Protection Agency (EPA) the enclosed revision to the SIP, to add MCAQD Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). ADEQ is submitting this SIP revision pursuant to Arizona Revised Statutes Sections 49-104, 49-106, 49-404, and 49-406, and Code of Federal Regulations Title 40, Sections 51.102 through 51.104.

The Maricopa County Board of Supervisors adopted Rule 205 and approved submittal of the rule as a revision to the Arizona SIP on April 26, 2023.

ADEQ hereby requests that EPA approve Rule 205 into the Arizona SIP. If you have any questions, please contact Kimberly Butler, Manager of the Planning & Analysis Division at MCAQD at (602) 506-6731 or Kimberly.Butler@Maricopa.gov.

Sincerely,

Daniel Czecholinski, Director
Air Quality Division

Enclosure

cc: Doris Lo, EPA Region IX
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May 1, 2023

Ms. Karen Peters
Director
Arizona Department of Environmental Quality (ADEQ)
1110 W. Washington St.
Phoenix, AZ 85007

RE: Submittal of Maricopa County Air Pollution Control Regulations, Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits) as a Revision to the Arizona State Implementation Plan (SIP)

Dear Ms. Peters:

As the designated U.S. Environmental Protection Agency (EPA) contact, the Maricopa County Air Quality Department (MCAQD) hereby requests that ADEQ submit to the EPA for approval the enclosed Rule 205. The Maricopa County Board of Supervisors adopted Rule 205 and approved submittal of the rule as a revision to the Arizona SIP at a public hearing on April 26, 2023.

In this submittal, MCAQD is requesting that the EPA approve Rule 205 into the Arizona SIP. This submittal includes all of the administrative materials and technical support materials specified in 40 CFR 51, Appendix V.

You may direct any questions to Kimberly Butler, Manager of the Planning & Analysis Division, at 602-506-6731 or Kimberly.Butler@Maricopa.Gov.

Sincerely,

A handwritten signature in blue ink that reads "Philip A. McNeely".

Philip A. McNeely
Director

Enclosure

Cc email: Elizabeth Adams – Adams.Elizabeth@epa.gov, EPA
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May 2023

REVISION TO ARIZONA'S STATE IMPLEMENTATION PLAN (SIP)

ADDITION OF RULE 205 TO THE MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS (MCAPCR)

**Maricopa County
Air Quality Department
Planning and Analysis Division**



Table of Contents

Section 1:	Introduction.....	4
1.1	Purpose.....	4
1.2	Regulatory Background.....	5
1.3	Summary of Rule 205.....	6
1.4	Demonstration of How Emission Reductions Generated Through Replacement or Retrofit of Captive Fleet Vehicles Meet the Federal Clean Air Act Requirements for New Source Review Offsets.....	13
Section 2:	Completeness Criteria	23
2.1	Administrative Materials.....	23
2.2	Technical Support	25
Appendix 1:	Notices of Stakeholder Workshop	28
Appendix 2:	Notice of Board of Health Meeting to Initiate Regulatory Change.....	33
Appendix 3:	Board of Health Approval to Initiate Regulatory Change	35
Appendix 4:	Notice of Proposed Rulemaking and Notice of Availability.....	50
Appendix 5:	Notice of Board of Health Meeting to Make a Recommendation to the Board of Supervisors	76
Appendix 6:	Board of Health Recommendation to the Board of Supervisors.....	78
Appendix 7:	Notice of Public Hearing.....	91
Appendix 8:	Board of Supervisors’ Approval.....	94
Appendix 9:	Notice of Final Rulemaking	96
Appendix 10:	Relevant Arizona Revised Statutes	183
Appendix 11:	Rule 205	188
Appendix 12:	Letter to EPA Administrator Michael Regan from U.S. Senators Kyrsten Sinema and Mark Kelly	203

Section 1: Introduction

1.1 Purpose

The federal Clean Air Act's (CAA) New Source Review (NSR) program requires the owner or operator proposing to construct a new major source or proposing a major modification of an existing major source in a nonattainment area to obtain emission offsets before the new or modified major source commences operation. The purpose of requiring emission offsets is to allow a nonattainment area to move towards attainment of the National Ambient Air Quality Standards (NAAQS) while still allowing for industrial growth in that area.

Maricopa County is currently designated as a moderate nonattainment area for both the 2008 8-hour ozone NAAQS and the 2015 8-hour ozone NAAQS. As a result, an owner or operator proposing to construct a new major source or proposing a major modification of an existing major source must obtain 1.15 tons of emission offsets for every 1.0 ton of proposed emission increases from the project. Currently, there is a limited amount of emission offsets available in Maricopa County. Specifically, there is a limited amount of volatile organic compound (VOC) and oxides of nitrogen (NOx) emission offsets available.

The limited amount of emission offsets could directly impact economic growth in important sectors of the Maricopa County economy. One such sector is the semiconductor industry, which is a source of both VOC and NOx emissions. According to the Greater Phoenix Economic Council (GPEC), Greater Phoenix is the third largest U.S. metro area for semiconductor manufacturing employment and home to some of the largest businesses in the semiconductor industry. These businesses are heavily invested in the area. As the [GPEC website](#) states:

“Intel and Taiwan Semiconductor Manufacturing Company (TSMC) committed a combined \$58B in investments to Greater Phoenix in 2021 and 2022. Intel, which established a presence here in 1979, spends more than \$500 million annually to support R&D and has invested tens of billions of dollars over the decades. TSMC is putting \$40 billion into the construction of two fabs in Phoenix to drive its North American manufacturing.”

To accommodate future economic growth in Maricopa County while complying with federal air quality requirements, MCAQD has created Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits) to allow for the generation, certification, and utilization of mobile source emission reduction credits (MERCs) from captive fleet vehicles. The generation, certification, and utilization of MERCs from mobile sources will increase the amount of emission reduction credits available in Maricopa County and thereby increase the amount of emission offsets available for major sources looking to locate or expand in Maricopa County.

For mobile source emission reductions to be used as emission offsets, they must meet certain requirements in the CAA and the Code of Federal Regulations (CFR). Specifically, the emission reductions must be certified as permanent, quantifiable, surplus, enforceable, and real (offset generation integrity criteria). A detailed demonstration of how the emission reductions from mobile sources certified under Rule 205 meet these criteria is included under Section 1.4 of this submittal.

This SIP revision is being submitted to the U.S. Environmental Protection Agency (EPA) for approval of Rule 205 into the Arizona SIP. Rule 205 was adopted by the Maricopa County Board of Supervisors on April 26, 2023. Approval of Rule 205 into the Arizona SIP will allow for the generation, certification, and use of MERCs in Maricopa County and allow the county to continue to move towards attainment of the NAAQS while still allowing for industrial growth in the county.

1.2 Regulatory Background

In 1999, the Arizona State Legislature passed House Bill 2594 giving the Arizona Department of Environmental Quality (ADEQ) the authority to “...establish and administer an Arizona emissions bank.” The emissions bank was authorized under Arizona Revised Statutes (A.R.S.), Title 49, Chapter 3, Article 1, Section 410 [A.R.S. § 49-410] and implemented by ADEQ under Arizona Administrative Code (A.A.C.), Title 18, Chapter 2, Article 12 [R18-2-1201 et seq]. The statute provided that a permitted source that reduced emissions of conventional air pollutants by an amount greater than legally required “shall be granted credit in an amount determined by the department of environmental quality.” [A.R.S. § 49-410(B)]. The statute set forth conditions for the emissions to be eligible for credit and deposited into the bank. Specifically, the emission reductions had to be permanent, quantifiable, and otherwise enforceable and occur after the effective date of the statute. The statute also allowed ADEQ to delegate the certification of emission reduction credits to a county or multi-county air quality control region while ADEQ retained the authority to register the deposit, transfer and use of emission reduction credits and administer the voluntary Arizona emissions bank [A.R.S. § 49-410(C)].

In 2017, the Arizona State Legislature amended A.R.S. § 49-410 to allow for the generation, certification, and utilization of emission reduction credits (ERCs) from nontraditional sources, including mobile sources which are the focus of Rule 205. Prior to this, only ERCs generated from stationary sources with an air quality permit could be deposited in the Arizona Emissions Bank.

For sources located within Maricopa County, ADEQ and MCAQD entered into amended delegation agreement No. EV12-0057 in January 2021, whereby ADEQ delegated MCAQD “the authority to evaluate applications to assess the appropriateness for certification as an emission reduction credit” as well as “authority to adopt, observe, and enforce ADEQ’s emission reduction credit regulations”. MCAQD was provided responsibility to certify emission reduction credits from sources seeking credit for emission reductions within Maricopa

County, revise permits for those sources using the voluntary emission reductions, and issue permits to eligible sources wishing to use emission reductions credits within Maricopa County.

In addition to Rule 205, the Maricopa County Air Pollution Control Regulations contain two other offset-creation rules. Rule 204 (Emission Reduction Credit Generation, Certification, and Use) was created May 7, 2003, and last revised December 11, 2019. Its purpose is to facilitate the creation and trading of emission reduction credits and includes provisions addressing the certification and use of ERCs generated through the electrification of truck stops, electric standby equipped transport refrigeration units, and the electrification of onsite equipment. Rule 242 (Emission Offsets Generated by the Voluntary Paving Of Unpaved Roads) was created June 20, 2007 and establishes enforceable procedures for calculating emission reductions of particulate matter created through the voluntary paving of unpaved public roads.

The development and expansion of the Arizona Emissions Bank and ERCs in Maricopa County has been ongoing for many years in Maricopa County. This development and expansion are supported by U.S. Senators Kyrsten Sinema and Mark Kelly, who on May 26, 2022, submitted a letter to EPA Administrator Michael Regan asking for continued cooperation in implementing innovative solutions for ozone pollution reduction while still maintaining and fostering critical economic development within Maricopa County, [see Appendix 12](#).

1.3 Summary of Rule 205

An overview of each rule section is below:

- Section 100 (General) states the purpose of the rule and applicability of the rule which includes owners or operators of captive fleet vehicles to be used as mobile source emission reduction credit (MERCs).
- Section 200 (Definitions) lists definitions of terms used in the rule. The terms are derived from the definitions found in A.A.C. Title 18, Chapter 2, Article 12, R18-2-1201, EPA discussions and guidance, federal regulations, and the Maricopa County Air Pollution Control Regulations. Additional definitions are provided for clarification of generation and quantification requirements of MERCs for a permitted generator.
- Section 300 (Standards) describes the application, certification, generation, registration, and utilization requirements of MERCs by a permitted generator.
- Section 400 (Administrative Requirements) describes the applicable fees that may be incurred by a permitted generator to certify MERCs.
- Section 500 (Monitoring and Records) describes specific recordkeeping and monitoring requirements that a permitted generator must comply with to demonstrate the continued generation of emission reductions and the integrity of the certified credits.

- Appendix A describes the calculation methodology used to quantify baseline emissions and to quantify emission reductions generated by a permitted generator.

An in-depth discussion of each section is below:

Section 100 – General

Section 101 (Purpose) states the purpose of the rule is to facilitate creation and trading of MERCs for use as federal NSR offsets by a stationary source by providing a process for:

- Generating mobile source emission reduction credits for reductions achieved by permitted generators.
- Certifying credits as meeting offset requirements in advance of the certified credits' use for that purpose.
- Registering certified credits generated under this rule in the Arizona Emissions Bank.
- Using certified credits generated under this rule registered in the Arizona Emissions Bank.
- Using certified credits generated under this rule not registered in the Arizona Emissions Bank.

Section 102 (Applicability) specifies the persons and entities that Rule 205 applies to:

- A permitted generator, as defined in Section 213.
- The owner or operator of a permitted stationary source that intends to use certified credits as offsets.

Section 200 – Definitions The definitions in Section 200 are derived from definitions in the A.A.C. R18-2-1201, federal regulations, EPA discussions and guidance, and the Maricopa County Air Pollution Control Regulations.

The following definitions are derived from definitions in A.A.C. R18-2-1201:

- ACCOUNT HOLDER
- ARIZONA EMISSIONS BANK
- CERTIFIED EMISSION REDUCTION CREDIT except the emission reduction credit must meet the certification criteria in Rule 205 and be issued by MCAQD
- EMISSION REDUCTION CREDIT
- ENFORCEABLE
- OFFSETS
- PERMANENT the adopted definition of permanent in A.A.C. R18-2-1201 differs from the definition in Rule 205 but the definition of permanent in Rule 205 was derived from a draft version of A.A.C. R18-2-1201 before it was revised to the adopted definition

- PERMITTED GENERATOR has been revised to identify the owner or operator of a captive fleet of vehicles as the permitted generator and reference having or obtaining a Maricopa County Air Quality Permit.
- QUALIFYING EMISSIONS additionally quantified in the periodic emissions inventory
- REAL
- SURPLUS

The following definitions are derived from federal regulations, EPA discussions and guidance, and the Maricopa County Air Pollution Control Regulations:

- BASELINE EMISSIONS definition is derived from the definition of baseline actual emissions found in 40 CFR 52.21(b)(48).
- BASELINE VEHICLE
- CAPTIVE FLEET
- QUANTIFIABLE definition is taken from Rule 100 of the Maricopa County Air Pollution Control Regulations but modified to be more specific for vehicle emission quantification.
- MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC)
- PERIODIC EMISSIONS INVENTORY added to demonstrate reasonable further progress in attainment of the NAAQS
- REPLACEMENT VEHICLE
- RETROFIT VEHICLE definition is derived from the definition of clean alternative fuel conversion found in 40 CFR 85.502

Section 300 – Standards

Section 301 (Certification of Credits for Mobile Source Emission Reductions by a Permitted Generator)

Section 301.1.a provides two conditions under which a permitted generator may apply for certified credits from reductions in qualifying emissions that comply with Section 302 (MERC Generation). Under the first condition the permitted generator already holds a Maricopa County Air Quality Department Stationary Source Permit and may apply for certified credits by submitting an ERC application and an application for a permit revision seeking to impose conditions that make the reductions in qualifying emissions permanent and enforceable. Under the second condition the permitted generator has not obtained a permit and may apply for certified credits by submitting an ERC application and an application for a permit seeking to impose conditions that make the reductions in qualifying emissions permanent and enforceable.

Section 301.1.b describes the information a permitted generator must include in an application for certified credits. This includes information on the amount of and methodology for calculating the reductions in qualifying emissions as well as any other information necessary to verify

the reductions qualify as permanent, quantifiable, surplus, enforceable, and real. An actual date or anticipated date that the reductions in qualifying emissions has or will be implemented by the permitted generator must be provided to ensure emission reductions take place before the stationary source relying on the reductions as offsets begins operation.

Section 301.2 (Action on Application) describes the Control Officer's action on the application. First, the Control Officer evaluates the application to determine if the information provided demonstrates the emission reductions meet the offset generation integrity criteria of permanent, quantifiable, surplus, enforceable, and real and to determine if the generation requirements in Section 302 are met. If the Control Officer determines the emission reductions meet the offset generation integrity criteria, the Control Officer must provide the public an opportunity to comment on the proposed determination to issue certified credits and the permit or permit revision. This requirement applies to all proposed actions to certify credits according to Rule 205 and the proposed determination must include the Control Officer's underlying analysis for proposing to certify credits.

If the Control Officer determines the emission reductions meet the offset integrity criteria, the Control Officer will issue a permit or permit revision and issue one certified credit for each ton per year of reduction that meets the integrity criteria, as rounded down to the nearest one tenth (1/10) of a ton. If the Control Officer determines that the emission reductions do not meet all of the offset generation integrity criteria, then the Control Officer will not issue any certified credits for the emission reductions.

Section 301.3 (Registration of Certified Credits in the Arizona Emissions Bank) notifies the permitted generator the certified credits may be registered in the Arizona Emissions Bank and directs the permitted generator to Section 303 for registration procedures. The registration of certified credits in the Arizona Emissions Bank is not required.

Section 302 (MERC Generation)

Section 302.1 describes the specific requirements a permitted generator must comply with in order to apply to certify MERCs. First, the captive fleet of vehicles used to generate MERCs must be based and operated within the applicable nonattainment area. Certified credits will only be issued for reductions that are generated within the nonattainment area. Second, quantification of baseline emissions and emission reductions must be performed following the calculation methodology of Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit). Calculations must only include surplus reductions, and cannot include emission reductions created or used under any other emissions trading program, emission reductions used to satisfy

the State Implementation Plan including transportation conformity requirements, or any emissions reductions pursuant to a federal consent decree, or state and local settlements. A permitted generator may use an alternative calculation methodology for the quantification of emission reductions upon approval by the Control Officer and the Administrator. The Administrator shall be provided 60 days to review the submittal and written approval from the Administrator is required before it may be used.

Section 302.2 describes the operating, maintenance, monitoring, removal/disposal, replacement, and recordkeeping requirements the permitted generator must comply with for certification of MERCs. The requirements are as follows:

Section 302.2.a. (Operations and Maintenance) requires the replacement or retrofitted vehicles be maintained per the manufacturer's written instructions or maintenance schedule provided by the manufacturer's authorized service provider.

Section 302.2.b. (Monitoring of Captive Fleet) requires the permitted generator monitor the replacement or retrofitted vehicles per the monitoring provisions in Section 503 to ensure emission reductions remain permanent as represented in the ERC application under Section 301.1.b.3.

Section 302.2.c. (Removal/Disposal of Replaced Baseline Vehicles) requires the permitted generator either render the baseline vehicle permanently disabled and dispose of it in a manner that complies with all applicable local, state, and federal laws or permanently remove the baseline vehicle from the applicable nonattainment area. Permanent removal of a baseline vehicle is demonstrated by providing documentation that includes a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas.

Section 302.2.d. (Subsequent Vehicle Replacements) requires the replacement or retrofitted vehicles only be replaced with vehicles that are certified to an emission limit equivalent or less than the original replacement or retrofitted vehicles and comply with the most recent applicable federal emission standards. The subsequent vehicle replacement requirement shall continue for 20 years from the issuance date of the certified credits. Lastly, the permitted generator shall ensure the replaced vehicle is not operated in any other captive fleet owned or operated by the permitted generator in the applicable Maricopa County nonattainment area.

Section 302.2.e. (Vehicle Retrofit) requires the permitted generator ensure the retrofit vehicle is exempt from the tampering prohibition of clean alternative fuel conversions, which is accomplished by compliance with 40

CFR 85, Subpart F and maintaining a valid corresponding certificate of conformity or notification submission to the EPA.

Section 302.2.f. (Timing) requires the permitted generator demonstrate vehicle replacement or retrofit and removal or disposal of the baseline vehicle occur either before the application for certified credits is submitted or through an enforceable timeline contained within the permit or permit revision as described in Section 301.2.c.1.

Section 302.2.g. (Monitoring and Recordkeeping) states the permitted generator is subject to the monitoring and recordkeeping requirements of Section 500 upon issuance of the permit or permit revision under Section 301.2.c.1.

Section 303 (Registration of Certified Credits in the Arizona Emissions Bank)

As previously mentioned, Section 303 describes the voluntary registration of certified credits in the Arizona Emissions Bank. Outlined are the requirements the permitted generator must follow to register credits in the bank including indicating on their MCAQD ERC application their intent to register the credits and opening an Arizona Emissions Bank account. The Control Officer lastly notifies ADEQ of the number of certified credits issued.

Section 304 (Use of the Certified Credits)

Section 304 describes process for the stationary source's use of certified credits as federal NSR offsets. As registration in the Arizona Emissions Bank is voluntary, credits may or may not be registered. If the certified credits are registered, then the account holder shall submit an application with ADEQ to use the certified credits. If the credits are not registered, then the stationary source must notify MCAQD and submit the certificate of certified credits in conjunction with the permit application.

Section 304.3 requires the owner or operator of the stationary source using certified credits to use the oldest credits in their possession first. Section 304.4 contains the MERC integrity requirement to protect the surplus of the credits for use as offsets. The credits shall be reviewed by the Control Officer to determine they remain surplus at the time of use and shall revise the amount if necessary. Furthermore, certified credits may only be used if the reductions in qualifying emissions will be implemented before the new or modified source relying on the credits begins operation.

Section 400 – Administrative Requirements

Section 401 (Fees)

Section 401 describes the fees that may be charged in conjunction with the rule which include preliminary ERC calculations review fees, ERC application processing fees, and permit fees.

Section 500 – Monitoring and Records

Section 501 (Recordkeeping and Records Retention)

Section 501 outlines general recordkeeping requirements, including the requirement to maintain records for 5 years after the record is created unless otherwise specified.

Section 502 (Inspections)

Section 502 requires a permitted generator provide the Control Officer with access to the premises for the purpose of conducting an inspection to verify compliance with the rule.

Section 503 (MERC Generation Monitoring)

Section 503 requires the permitted generator to monitor parameters used to quantify certified credits. These parameters include vehicle miles traveled (VMT), percent of VMT within the nonattainment area, and any other parameter used to make certified credits quantifiable. The VMT and percent of VMT within the nonattainment area must be determined by GPS tracking.

Section 504 (MERC Generation Records)

Section 504 describes specific recordkeeping requirements a permitted generator must comply with for each replacement or retrofitted vehicle. The requirements are as follows:

Section 504.1 (Certified Credit Records) requires the permitted generator maintain all records supporting credit certification including but not limited to: documentation of when vehicle retrofit or replacement took place, documentation verifying proper baseline vehicle removal or disposal, VMT for each baseline vehicle, and percent VMT within the nonattainment area for each baseline vehicle.

Section 504.2 (Replacement or Retrofitted Vehicle Inventory Records) requires a permitted generator maintain a detailed inventory of each replacement or retrofitted vehicle which includes identifying information and dates the vehicle was added or removed from the inventory.

Section 504.3 (Operational Records) requires the permitted generator to maintain monthly records describing all maintenance, repairs, and corrective actions performed. In addition, the permitted generator must maintain monthly records of VMT, percent of VMT in the nonattainment area, and any other monitoring required by Section 503.

Section 504.4 (Vehicle Retrofit Records) requires the permitted generator maintain records to demonstrate compliance with 40 CFR 85, Subpart F. This includes the applicable valid certificate of conformity or notification submission to the EPA.

Lastly, Section 504 (Annual Report) describes the annual report the permitted generator must submit which includes a summary of the captive fleet's operation and compliance with § 302.2(b) for the previous calendar year. The permitted generator must also attest that any replaced baseline vehicle is not a part of any other captive fleet owned or operated by the permitted generator in Maricopa County and how this was verified.

Appendix A – Calculations for Determining Emission Reductions from each Vehicle Replacement or Retrofit

Section A of Appendix A describes the calculation of baseline emissions, which are determined by multiplying the annual utilization by the baseline pollutant emission factor. Section B of Appendix A describes the calculation of post project emissions, which is determined by multiplying the annual utilization by the post project pollutant emission factor. Section C of Appendix A requires the amount of eligible emission reduction credits for each vehicle to be determined by subtracting the post project emissions from baseline emissions.

Section D of Appendix A describes a high pollution area incentive for emission reduction credits. The incentive is gained by meeting the eligibility requirements, including demonstrating annual utilization within an area of high pollution as determined through EPA's EJScreen (Environmental Justice Screening and Mapping Tool) Environmental Justice Indexes. The incentive is described as using the actual baseline vehicle engine model year to determine emission reduction credits for Section C of Appendix A. This is in contrast to how the baseline vehicle engine model year is defined in Section A of Appendix A, where the "baseline vehicle engine model year corresponds to the calendar year in which the emission reductions are generated by replacing or retrofitting the baseline vehicle".

1.4 Demonstration of How Emission Reductions Generated Through Replacement or Retrofit of Captive Fleet Vehicles Meet the Federal Clean Air Act Requirements for New Source Review Offsets

As mentioned in Section 1.1, in order for emission reductions from mobile sources to be used as emission offsets, the emission reductions must be certified as permanent, quantifiable, surplus, enforceable, and real (offset generation integrity criteria) as required by 40 CFR 51.165(a)(3)(ii)(A) through (D) and 40 CFR 51.165(a)(3)(ii)(G). Certifying mobile source emission reductions

meet the offset generation integrity criteria presents a number of challenges. Below is a discussion of some of these challenges followed by a detailed description of how Rule 205 contains provisions to address these challenges and ultimately ensures MERCs certified under the rule meet the federal CAA requirements for NSR offsets.

Challenges Associated with the Certification of MERCs for Use as NSR Offsets:

The first challenge associated with the certification of MERCs for use as NSR offsets is mobile sources do not typically have an air quality permit associated with them. An air quality permit provides a mechanism by which emission reductions can be made permanent and enforceable, two of the most challenging offset generation integrity criteria to meet. Rule 205 contains provisions requiring the permitted generator to obtain a permit or permit revision to make the emission reductions permanent and enforceable. These provisions are discussed in more detail below.

A second challenge involves mobile source fleet turnover. Generally, the entire mobile source fleet will get cleaner over time, therefore emission reductions from normal fleet turnover must be excluded. Rule 205 addresses this challenge in Appendix A by defining the baseline vehicle engine model year as the calendar year in which the emission reductions are generated by replacement or retrofit rather than the calendar year corresponding to the model year of the replaced or retrofitted vehicle. This way mobile source baseline emissions are based on emissions that would have occurred in the absence of generating emission reductions, and emission reductions due to fleet turnover are excluded.

A third challenge involves ensuring credit is only given for emission reductions generated within the nonattainment area. Mobile sources have the potential to move in and out of the nonattainment area. Rule 205 contains provisions to ensure credit is only given for emission reductions generated within the nonattainment area. In addition, it contains provisions to ensure the amount of emission reductions originally certified continue to be generated within the nonattainment area. These provisions are discussed in more detail below.

A final challenge involves interference with an area's reasonable further progress toward attainment of the applicable national ambient air quality standard. The CAA requires areas designated as nonattainment for ozone and classified as moderate or worse to demonstrate reasonable further progress (RFP) by reducing emissions of ozone precursors (nitrogen oxides or NO_x and volatile organic compounds or VOC). The RFP plans must include a motor vehicle emissions budget which provides the allowable on-road mobile emissions an area can produce and still continue to demonstrate RFP. In order to avoid interference with RFP, Rule 205 requires qualifying emissions to be quantified in the periodic emissions inventory, the base year emissions inventory within the Maricopa County nonattainment area for the relevant conventional air pollutant or the most recent periodic update.

Rule 205 Provisions Addressing Offset Generation Integrity Criteria:

Below is a detailed demonstration showing how emission reductions generated by replacement or retrofit of captive fleet vehicles and certified under Rule 205 address the above-mentioned challenges and meet the federal CAA requirements for NSR Offsets.

Permanent

Section 212 defines permanent as “A reduction in qualifying emissions used to offset emissions increases that are enduring for the remaining life of the corresponding emissions increase.” Rule 205 contains provisions to ensure reductions in qualifying emissions from the replacement or retrofit of captive fleet vehicles are enduring for the remaining life of the corresponding emissions increase, or remaining life of the stationary source relying on the emission reductions as offsets. These provisions begin in the definitions section. As stated in the definition of “Captive Fleet”, the fleet of vehicles must “serve as a permanent source of emission reductions when a vehicle is replaced or retrofitted”. A permitted generator cannot participate in the MERC program without demonstrating the replacement or retrofit of captive fleet vehicles serves as a permanent source of emission reductions.

A permitted generator must demonstrate the reduction in qualifying emissions are permanent through the ERC application. Section 301.1.b.3 requires a permitted generator to submit an ERC application that includes a description demonstrating how the surplus reductions in qualifying emissions will be permanent. In addition, Section 301.1.b.7 requires the permitted generator present any other information or records necessary to verify that the reductions in qualifying emissions are permanent.

The demonstration submitted by the permitted generator must be reviewed and approved by the Control Officer, in accordance with this SIP approved rule. Section 301.2.a. states the requested MERCs shall be evaluated by the Control Officer to determine, amongst other things, whether they are permanent. If the Control Officer determines the requested credits meet all the criteria, including permanence, and should be certified, then the Control Officer must issue either a permit or permit revision to make the reductions in qualifying emissions permanent and enforceable.

To make the reductions in qualifying emissions permanent, Rule 205 contains provisions that ensure the reductions are enduring. Section 302.2.a. states, “The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer’s written instructions and maintenance program.” By properly operating and maintaining each replacement or retrofit captive fleet vehicle used to generate certified credits, the permitted generator maintains the ability to continue to generate emission reductions at the same emission rates used to calculate the emission reductions and thereby produce emissions reductions that are enduring.

Additionally, Section 504.3 requires the permitted generator to maintain relevant operational records to provide evidence of proper operation and maintenance on a monthly basis.

In conjunction with the operation and maintenance requirements, Rule 205 contains monitoring requirements for parameters used to quantify certified credits. These requirements are referenced in Section 302.2.b. to “ensure the replaced or retrofitted vehicles continue to generate permanent emission reductions” as represented in the application for certified credits under Section 301.1.b.3. Section 503 describes the specific monitoring parameters which include vehicle miles traveled (VMT) and the percentage of VMT that occurred within the applicable nonattainment area as determined by GPS tracking. The requirement to monitor the permanent generation of MERCs is supported by Sections 504.3 and 504.5, which require maintaining monthly operational records and submission of a summary of those operational records in an annual report to the Control Officer.

The quantification of VMT within the applicable nonattainment area ensures permanency of the MERCs by requiring continual evaluation of the post project emissions. Through submission of an annual report the credits are periodically verified to remain valid through an updated post project determination. The annual report required to be submitted under Section 504.5 states “the permitted generator shall submit an annual report to the Control Officer summarizing the captive fleet’s operation and compliance with § 302.2(b) (Monitoring of Captive Fleet) for the previous calendar year” as well as “total annual VMT for each vehicle used to generate certified credits, and percentage of VMT each vehicle used to generate certified credits accrued in the applicable nonattainment area that calendar year”.

Rule 205 further ensures permanency through provisions that require the permanent removal or disposal of the replaced baseline vehicle to ensure emissions are no longer generated within the applicable nonattainment area by the replaced baseline vehicle. The vehicle replacement provisions within Rule 205 incorporate essentially a two-part emission reduction strategy. The first component of the strategy is to ensure the replaced baseline vehicle is properly removed from the nonattainment area or disabled and disposed of in a legal manner. The EPA’s [Improving Air Quality with Economic Incentive Programs](#) guidance emphasizes this by stating emission reductions cannot simply be generated through purchase of a new vehicle or engine. The replaced baseline vehicle must be properly removed or disposed of as well. The permitted generator is required within 302.2.c to “permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws.” Demonstration of removal from the nonattainment area is supported by the permitted generator’s requirement to maintain proper documentation which includes a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle

has been removed greater than 200 miles away from all Maricopa County nonattainment areas. Removal of the replaced baseline vehicle to a distance greater than 200 miles away from all Maricopa County nonattainment areas serves to ensure inventory shifting does not occur within the captive fleet if the replaced baseline vehicle remains under the same ownership. If the replaced baseline vehicle is sold to another owner, the 200-mile removal requirement serves to ensure the replaced baseline vehicle does not return to any Maricopa County nonattainment area.

The second part of the replacement emission reduction strategy pertains to vehicle replacement through the requirements within Section 302.2.d. for subsequent vehicle replacements. Subsequent vehicle replacement of the original replacement or retrofitted vehicles must be with “vehicles certified to an emission limit equivalent to or less than the replacement or retrofitted vehicle used to acquire certified credits and shall comply with the most recent applicable federal emission standard”. This requirement ensures emission reductions continue to be generated if the original replacement or retrofitted vehicle needs replacing. In addition, Section 302.2.d. states: “the permitted generator shall further ensure that any replaced baseline vehicle is not operated in any other captive fleet owned or operated by the permitted generator in the applicable Maricopa County nonattainment area.” This requirement further ensures the replaced baseline vehicle will not operate in the applicable nonattainment area and the emission reductions will continue to be permanent.

Section 302.2.d. also states the subsequent vehicle replacement requirement must continue 20 years from the issuance date of the certified credits although there is no specific regulation or EPA policy that requires subsequent vehicle replacements occur for a designated timeframe. The 20-year subsequent vehicle replacement requirement was determined to be a sufficient replacement requirement because trends in industry and government policy regarding vehicle electrification and lower emission standards indicate there will be a significant growth in the number of electric vehicles and lower NOx emitting vehicles on the road. This growth makes it extremely unlikely that any vehicle replaced 20 years after the issuance date of the certified credits could be replaced with a dirtier vehicle. Below is a discussion of these trends.

The Maricopa Association of Governments projected in their Battery Electric Vehicle Modeling Support Task, published in September 2021, the growth of the Total Electric Vehicles market in the combined areas of Maricopa and Pinal Counties for the next 30 years. The growth rate was classified into three separate categories, those being slow, medium, and fast. In analyzing the medium growth rate scenario, it was expected from the study that in 2029, 7.9% of all roadway vehicles would be electric. Further by 2039 and 2050, there is expected to be a medium growth rate to, respectively, 26.7% and 51.0% of all vehicles on the roadway being electric. The medium growth scenario indicates a more than five-fold increase in percentage of roadway electric vehicles from 2029 to 2050 in Maricopa and Pinal Counties.

Key federal incentives and legislation include funds provided by the [Inflation Reduction Act – Clean Heavy-Duty Vehicle Program](#). The Act invests \$1 billion to replace dirty heavy-duty vehicles with clean, zero-emission vehicles, support zero-emission vehicle infrastructure, and to train and develop workers until 2031. \$400 million will be directed to cities and towns in nonattainment areas. Additionally, the EPA’s Clean Truck Plan is a three-part plan to reduce emissions from new medium- and heavy-duty vehicles. The first part of the plan involves setting stronger NOx standards for heavy duty trucks beginning in model year (MY) 2027, and tightening the “Phase 2” greenhouse gas emissions for MY 2027 and beyond. According to the [final rulemaking](#) published January 24, 2023, “the emission reductions from the final rule will increase over time as more new, cleaner vehicles enter the fleet”. Furthermore, estimation based on modeling projects the final rule to reduce NOx emissions from heavy-duty vehicles in 2040 by greater than 40 percent, and by 2045 to almost 50 percent what they would have been in the absence of this action.

As the industry and government policy trends above indicate, significant growth in the number of electric vehicles and lower NOx emitting vehicles on the road can be expected over the next 20 years. These trends demonstrate a limited probability that subsequent vehicle replacement beyond the 20-year requirement would occur with a higher emitting vehicle than the original retrofitted or replacement vehicle. As a result, a 20-year replacement requirement ensures the emission reductions will endure for the remaining life of the corresponding emissions increase.

Quantifiable

Section 215 defines quantifiable as “With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and addressed in terms of character. Quantification may be based on emission factors, vehicle emissions testing, monitored values, operating rates, and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.” Rule 205 contains provisions to quantify emissions from the replacement or retrofit of captive fleet vehicles. These provisions include the quantification of baseline and post project emissions and the corresponding amount of eligible emission reduction credits.

A permitted generator must provide information on the methodology for quantifying the emission reductions in the emission reduction credit application. Section 301.1.b.4 requires a permitted generator to submit an ERC application that includes “information on the methodology for quantifying the surplus reductions in qualifying emissions for each pollutant subject to the application, including emissions calculations”. This section requires the applicant to describe the methodology used for the quantification, as well as provide actual emissions calculations. Additionally, Section 301.1.b.7. requires the permitted generator to present any other information or records necessary to verify that the reductions in qualifying emissions are quantifiable.

The ERC quantification submitted by the permitted generator must be reviewed and approved by the Control Officer. Section 301.2.a. states the requested MERCs shall be evaluated by the Control Officer to determine, amongst other things, whether they are quantifiable. If the Control Officer determines the requested credits meet all the criteria, including quantifiable, and should be certified, then the Control Officer must issue certified credit for each ton (rounded down to the nearest tenth of a ton) per year of reduction.

Quantification of emission reductions involves two main components, determination of the baseline emissions and the emission reductions. Section 302.1.b. describes the quantification of baseline emissions from each replaced or retrofitted captive fleet vehicle. Section 302.1.b requires the baseline emissions be calculated using the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit). Section 302.1.c describes the quantification of the emission reductions, or post project emissions, for each replaced or retrofitted captive fleet vehicle. Section 302.1.c requires the post project emissions be calculated using the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit).

As an alternative to the calculation methodology in Appendix A, Rule 205 includes a provision in Section 302.1.d that allows the permitted generator to use an alternative calculation methodology to quantify emission reductions. The alternative calculation methodology provision requires approval from both the Control Officer and the Administrator, and written approval is required from the Administrator prior to the permitted generator's use of the alternative calculation methodology.

Appendix A describes the three main components of the calculation methodology for quantifying emission reductions: baseline emissions, post project emissions, and amount of eligible emission reduction credits. Baseline emissions and post project emissions are determined by multiplication of the annual utilization by the corresponding pollutant emissions factor. The annual utilization for both baseline emissions and post project emissions is defined in Appendix A, Section A.2 and is based upon two years of historical data selected according to the definition of baseline emissions. Baseline and post project pollutant emissions factor are determined using fuel type, engine model year, and the on-road vehicle emissions factor found within the latest EPA MOVES software.

The baseline vehicle engine model year corresponds to the calendar year in which the emission reductions are generated by replacing or retrofitting the baseline vehicle. This serves to help mitigate declining fleet average emission factors, and is supported by the EPA's [Improving Air Quality with Economic Incentive Programs](#) guidance which states most mobile source baseline values should be determined by identifying what the emissions would be in the year of the credit generation. The replacement or retrofit vehicle engine model year

corresponds to the model year of the replacement vehicle or the year emission reductions are generated by retrofitting the baseline vehicle.

Upon determination of the baseline and post project emissions, the post project emissions are then subtracted from the baseline emissions and the remainder is the amount of eligible emission reduction credits for each vehicle.

In addition to the three main components of the calculation methodology for quantifying emission reductions, Appendix A includes a high pollution area incentive in Section D. The incentive seeks to incorporate environmental justice considerations into the rule for the purpose of addressing disproportionately adverse human health and environmental impacts in overburdened communities. Incentivization is determined through demonstration of annual utilization of at least 75% VMT within an area of high pollution, whereby a high pollution area is defined as any area in the 90th national percentile or greater for credited pollutant or precursor according to EPA's environmental justice mapping and screening tool EJScreen. Upon fulfillment of a vehicle incentive eligibility, the baseline vehicle model year may be subsequently defined as the actual model year of the baseline vehicle instead of the year when credit generation occurred. Eligibility requires a gasoline baseline vehicle engine to be no more than 7 years older than the replaced or retrofitted vehicle engine, or the diesel baseline vehicle to be no more than 11 years older than the replaced or retrofitted vehicle engine.

Baseline vehicle engine age was determined by analyzing July 6, 2019 Arizona Department of Transportation (ADOT) vehicle registration data for Maricopa County. In relation to captive fleets, total heavy-duty gasoline and diesel vehicle populations for 1973 through 2019 were determined. In order to estimate the average heavy-duty gasoline and diesel vehicle useful lifespans, the percentage of the total population was determined starting in 2019 and proceeding back to a value of 100% for all years to 1973. It was found that at least 95% of the total 1973 through 2019 vehicle populations for heavy-duty gasoline and diesel vehicle populations were present from 2019 through 2006 for heavy-duty gasoline vehicles and 2019 through 1997 for heavy-duty diesel vehicles, correlating to an estimated 13-year useful lifespan for heavy-duty gasoline vehicles and 22-year useful lifespan for heavy-duty diesel vehicles in Maricopa County. The useful lifespans were divided roughly in half, or reduced to 7 and 11 years, in order to provide the incentive for prospective permitted generators whose vehicles had not already reached their approximate useful lifespan and would need to be replaced out of necessity by the captive fleet owner.

Surplus

Section 219 defines "surplus" to mean, "a reduction in qualifying emissions below the emission limitations and standards used to comply with any otherwise federally applicable requirements and is not relied upon to meet any requirements in the State Implementation Plan (SIP)." Rule 205 contains

provisions to ensure certified emission reductions are surplus beginning with the application process.

Section 301.1.b.3 requires a permitted generator to submit an ERC application that includes “A description of the vehicle replacement or retrofits that have resulted or will result in surplus reductions in qualifying emissions”. In addition, Section 301.1.b.4 requires the permitted generator provide “information on the methodology for quantifying the surplus reductions in qualifying emissions for each pollutant subject to the application, including emissions calculations”. Furthermore, Section 301.1.b.7. requires the permitted generator present any other information or records necessary to verify that the reductions in qualifying emissions are surplus.

The information submitted by the permitted generator must be reviewed and approved by the Control Officer. Section 301.2.a. states the requested MERCs shall be evaluated by the Control Officer to determine, amongst other things, whether they are surplus. If the Control Officer determines the requested credits meet all the criteria, including surplus, and should be certified, then the Control Officer must issue one certified credit for each ton per year of reduction.

To further ensure the reductions in qualifying emissions are surplus, Rule 205 contains provisions under Section 302.1 and 304.4 addressing surplus. Section 302.1.c.2 requires that calculations only include reductions that are surplus, and prohibits the use of emission reductions that were “created or used under any other emissions trading program, emission reductions used to satisfy the State Implementation Plan including transportation conformity requirements, or any emissions reductions pursuant to a federal consent decree, or state and local settlements”.

Section 304.4 requires the Control Officer, at the time of use of the certified credits, to review the amount of previously issued certified credits to verify they remain surplus and revise the amount if necessary to maintain surplus integrity.

Enforceable

Section 207 defines “enforceable” as “Specific measures for assessing compliance with an emissions limitation, control, or other requirement established in a permit or in this rule in a manner that allows compliance to be readily determined by, but not limited to, an inspection of records and reports.” Rule 205 contains provisions to ensure reductions in qualifying emissions from replaced or retrofit captive fleet vehicles are enforceable.

There are two components to enforceability. First, there must be mechanisms to ensure generation of data showing that emission reductions described in the ERC application have been generated. Second, there must be a mechanism to trigger enforcement action if the continued generation of emission reductions cannot be demonstrated.

To address the first component of enforceability, Rule 205 contains monitoring and recordkeeping requirements for permitted generators. Sections 302.2, 503, and 504, as discussed earlier, describe specific monitoring and recordkeeping requirements that the permitted generator must comply with to demonstrate the continued generation of emission reductions as represented in the application for certified credits.

To address the second component of enforceability, MERCs certified under Rule 205 are made legally enforceable through two mechanisms. First, enforcement action is supported through the issuance of a permit or permit revision. Rule 205 contains the requirement in 301.2.c.1 whereby the Control Officer shall issue either a permit or permit revision that incorporates the requirements of Section 302.2 if the requested credits are determined to meet the requirements of Rule 205. Section 302.2, as discussed earlier, describes the operating, maintenance, monitoring, removal/disposal, replacement, and recordkeeping requirements for a permitted generator that plans to replace or retrofit all or part of their captive fleet to generate a reduction in qualifying emissions. The permit or permit revision provides the enforceable mechanism through which the second component of enforceability is enacted. The MCAQD permit is issued in accordance with SIP approved Maricopa County Air Pollution Control Regulations, Rule 200, Section 303, and Arizona Revised Statutes (A.R.S.), Sections 49-404c and 49-480. Failure to conform to the emission limits and any other condition within the permit is a violation of law and will be the basis of an enforcement action. Second, upon incorporation of Rule 205 into the federally approved Arizona SIP, the EPA is authorized to take enforcement action against violators and Rule 205 subsequently becomes federally enforceable as described in Sections 110 and 113 of the CAA.

Real

The term “real” is defined in Section 220 as “A reduction in actual emissions released to the air resulting from a physical change or change to the method of operations by a permitted generator.” Rule 205 contains provisions to ensure reductions in qualifying emissions are real beginning in the definitions section.

Section 214 defines “qualifying emissions” as “emissions of any conventional air pollutant quantified in the periodic emissions inventory, other than elemental lead, or any precursor of a conventional air pollutant from any activity when generated within the Maricopa County nonattainment area associated with the conventional air pollutant”. On road mobile source emissions have been shown to exist by being broadly documented in the [2020 Periodic Emissions Inventory for Ozone Precursors for Maricopa County and the Phoenix-Mesa Nonattainment Areas](#). Emissions consisting of exhaust, evaporative, refueling, and extended idling were estimated using the latest Motor Vehicle Emission Simulator model (MOVES3). The MOVES3 inputs were developed using local data from multiple sources such as the Arizona Department of Transportation (ADOT), the Arizona Department of Agriculture (AZDA), the Maricopa

Association of Governments (MAG) Transportation Division, and the National Centers for Environmental Information (NCEI).

Section 301.1.b.7 requires the permitted generator to provide information in the ERC application to verify the reductions in qualifying emissions are real. Section 302.1.b describes the quantification of baseline emissions from each replaced or retrofitted captive fleet vehicle. The ability to quantify baseline emissions demonstrates the emissions exist, or are real.

Finally, in support of providing evidence that the emission reductions are real, the permitted generator must demonstrate the replacement or retrofitted vehicle used for generating MERCs is operating within nonattainment area in lieu of the baseline vehicle. Section 302.2.c requirements for removal or disposal of the baseline vehicle have been previously discussed. Sections 503.1 and 503.2 include the determination of VMT by GPS tracking. The GPS serves as a tamper resistant device in support of demonstrating the actual operation of the replacement or retrofitted vehicle, which is necessary for generation of MERCs and to demonstrate they are real.

Section 2: Completeness Criteria

2.1 Administrative Materials

- 2.1(a) A formal letter of submittal from the MCAQD Director or [his] designee, requesting the EPA approval of the SIP revision.**

See SIP submission cover letter from Philip A. McNeely, Director of MCAQD, included above.

- 2.1(b) Evidence that MCAQD has adopted the SIP revision in the State code or body of regulations; or issued the permit, order, consent agreement in final form.**

The Maricopa County Board of Supervisors adopted Rule 205 on April 26, 2023.

See Appendix 8 of this document.

- 2.1(c) Evidence that MCAQD has the necessary legal authority under State law to adopt and implement the SIP revision.**

Arizona Revised Statutes (A.R.S.) §§ 49-112, 49-410, 49-471.09, 49-474, and 49-479 authorize MCAQD to submit the rule for approval in the SIP.

See Appendix 10 of this document.

- 2.1(d) A copy of the actual regulations, or documents submitted for approval and incorporation by reference into the plan, including**

indication of the changes made to the existing approved plan, where applicable.

See Appendix 11 for a copy of the actual regulation submitted for approval and incorporation into the plan.

2.1(e) Evidence that MCAQD followed all of the procedural requirements of the State’s laws and constitution in conducting and completing the adoption/issuance of the plan.

MCAQD completed all the following procedural requirements for obtaining approval of the rule creation:

- (1) Conducted Stakeholder Workshops on January 10, 2022, and November 2, 2022, to discuss the proposed creation of Rule 205;
- (2) Obtained approval to initiate regulatory change from the Board of Health (Minutes of the Board of Health meeting January 24, 2022);
- (3) Posted a Notice of Proposed Rulemaking on the Maricopa County Enhanced Regulatory Outreach Program (EROP) website on December 7, 2022, and published a Notice of Availability in the newspaper (Newspaper Affidavit);
- (4) Obtained a recommendation to the Board of Supervisors from the Board of Health (Minutes of the Board of Health meeting January 23, 2023);
- (5) Provided the public at least 30 days to comment on the proposed creation of Rule 205 and the draft SIP submittal (Board of Supervisors Public Hearing Notice and Newspaper Affidavit);
- (6) Obtained approval of Rule 205 and approval to submit the adopted rule as a revision to the Arizona SIP from the Board of Supervisors (Certified Minutes of Board of Supervisors Public Hearing April 26, 2023); and
- (7) Posted a Notice of Final Rulemaking on the Maricopa County EROP website.

See Appendices 1, 3, 4, 6, 7, 8, 9.

2.1(f) Evidence that public notice was given of the proposed change consistent with procedures approved by the EPA, including the date of publication of such notice.

See Appendix 7 for evidence that MCAQD gave public notice of the proposed regulatory change, including the date of publication of such notice.

2.1(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State’s laws

and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.

See Appendices 7 and 8.

2.1(h) Compilation of public comments and MCAQD's response.

The Notice of Final Rulemaking includes public comments and MCAQD's response to each comment.

See Appendix 9 of this document.

2.2 Technical Support

2.2(a) Identification of all regulated pollutant(s) affected by the plan.

Rule 205 implements procedures for the certification and utilization of mobile source emission reduction credits (MERCs) generated from captive fleet vehicles emitting particulate matter, sulfur dioxide, carbon monoxide, nitrogen oxides, or volatile organic compounds.

2.2(b) Identification of the locations of affected sources including the EPA attainment/nonattainment designation of the locations and the status of the attainment plan for the affected area(s).

Rule 205 is applicable to all areas and sources under MCAQD's jurisdiction.

EPA attainment/nonattainment designations for all or parts of Maricopa County are:

1987 PM ₁₀ Standard:	Serious Nonattainment (June 10, 1996)
2008 Ozone Standard:	Moderate Nonattainment (May 4, 2016)
2015 Ozone Standard:	Moderate Nonattainment (November 7, 2022)
1971 Carbon Monoxide Standard:	Attainment (April 8, 2005)
2008 Lead Standard:	Unclassified/Attainment (December 31, 2011)
2010 Nitrogen Oxides Standard:	Unclassified/Attainment (January 31, 2012)
2010 Sulfur Dioxide Standard:	Unclassified/Attainment (April 19, 2018)
2012 PM _{2.5} Standard:	Unclassified/Attainment (April 15, 2015)

The status of attainment plans for Maricopa County are:

2012 Five Percent Plan: Approved (June 10, 2014)
2017 MAG Ozone Moderate Plan: Approved (July 2, 2020)

2.2(c) Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.

An overall decrease in allowable emissions is anticipated as a result of this revision because of the offset requirements for major sources under the NSR program in the CAA. The CAA requires increased emissions from a new major source or major modification of an existing major source in a nonattainment area to be offset by an equal or greater emission reduction from other sources in the nonattainment area. In the case of an ozone moderate nonattainment area such as Maricopa County, the CAA requires the ratio of total emission reductions to total emissions increase to be at least 1.15 to 1.0. As a result, approval of Rule 205 into the SIP will lead to an overall decrease in emissions in Maricopa County.

2.2(d) MCAQD's demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented.

The CAA's NSR program requires the owner or operator proposing to construct a new major source or proposing a major modification of an existing major source in a nonattainment area to obtain emission offsets before the proposed project may commence. In the case of an ozone moderate nonattainment area such as Maricopa County, an owner or operator proposing to construct a new major source or proposing a major modification of an existing major source must obtain 1.15 tons of emission offsets for every 1.0 ton of proposed emission increases from the project. If Rule 205 is approved and implemented, the NAAQS, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility will all be protected because any major source using emission reductions certified under Rule 205 will be required to ensure there is at least 1.15 tons of emission reductions for every 1.0 ton of emissions increase from the new or modified source.

2.2(e) Modeling information required to support the proposed revision, including input data, output data, models used, justification of

model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.

Not applicable.

- 2.2(f) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.**

Not applicable.

- 2.2(g) Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels.**

See Appendix 11: Rule 205 adopted April 26, 2023.

- 2.2(h) Compliance/enforcement strategies, including how compliance will be determined in practice.**

MCAQD will determine compliance by conducting periodic inspections as is current practice. Enforcement of the rule will continue to occur through permit requirements and enforcement action per current department policies and procedures.

- 2.2(i) Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.**

Not applicable.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 1: Notices of Stakeholder Workshop



MARICOPA COUNTY AIR QUALITY DEPARTMENT NOTICE OF STAKEHOLDER WORKSHOP

Date and Time: Monday, January 10, 2022, 9:30 a.m.

Location: Attend Remotely via Go-To-Webinar

The Maricopa County Air Quality Department (MCAQD) will host a Stakeholder Workshop to introduce, discuss, and obtain preliminary input regarding the creation of proposed **Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)**. The draft rule is attached to this notice.

Written comments regarding the draft rule may be submitted through the Maricopa County [Enhanced Regulatory Outreach Program \(EROP\)](#) website.

This workshop will be held remotely, to attend please register though Go-To-Webinar at:

<https://attendee.gotowebinar.com/register/5947716210621755920>

(If link does not work, cut and paste in browser)

After registering, you will receive a confirmation email containing information about joining the webinar. Please be aware that the webinar will begin at 9:30 a.m. and will end after all comments and questions from those in attendance have been addressed.

Overview: Maricopa County is currently designated as a nonattainment area for both the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) and the 2015 8-hour ozone NAAQS. It is classified as a moderate nonattainment area for the 2008 8-hour ozone NAAQS and as a marginal nonattainment area for the 2015 ozone 8-hour NAAQS. In ozone nonattainment areas, the Clean Air Act (CAA) requires an owner or operator proposing to construct a new major source or proposing to construct a major modification of an existing major source to obtain emission offsets that exceed emission increases from the proposed project before the project may commence. In the case of an ozone moderate nonattainment area, such as Maricopa County, the CAA requires an owner or operator proposing to construct a new major source or proposing to construct a major modification of an existing major source to obtain 1.15 tons of emission offsets for every 1.0 ton of proposed emission increases from the project.

Recently, several inquiries have been made for expanding existing major sources or locating new major sources in Maricopa County. Sources that are interested in expanding or locating new major sources in Maricopa County may not be able to obtain enough emission offsets to move forward with these projects. As a result, industrial growth for certain major sources in Maricopa County could be limited.

The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the CAA for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary fleet vehicle replacement or retrofit, allow for the generation, certification and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County

will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

Next Steps: Following the Stakeholder Workshop, the MCAQD anticipates presenting the proposed rule to the Board of Health at the January 24, 2022 Board of Health meeting to obtain approval to initiate the regulatory change.

MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.



MARICOPA COUNTY AIR QUALITY DEPARTMENT NOTICE OF STAKEHOLDER WORKSHOP

Date and Time: Wednesday, November 2, 2022, at 9:00 a.m.

Location: Attend Remotely via Go-To-Webinar

The Maricopa County Air Quality Department (MCAQD) will host a second Stakeholder Workshop regarding the creation of proposed Maricopa County Air Pollution Control Regulations, **Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)**. The workshop will focus on proposed revisions made to the draft rule since the first workshop was conducted on January 10, 2022. The draft rule is attached to this announcement.

Written comments regarding the draft rule may be submitted through the Maricopa County [Enhanced Regulatory Outreach Program](#) website.

Comments received prior to November 14, 2022, will be considered before the next version of the draft rule is posted to the EROP website.

This workshop will be held remotely, to attend please register through Go-To-Webinar at:

<https://attendee.gotowebinar.com/register/9067737691805709840>

(If link does not work, cut and paste link above in a browser)

After registering, you will receive a confirmation email containing information about joining the webinar. Please be aware that the webinar will begin at 9:00 a.m. and will end after all comments and questions from those in attendance have been addressed.

Overview: The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the Clean Air Act for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary fleet vehicle replacement or retrofit, allow for the generation, certification and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

MCAQD held the first stakeholder workshop for Rule 205 on January 10, 2022. Since the first stakeholder workshop, the MCAQD has received written comments from one stakeholder as well as feedback from the U.S. Environmental Protection Agency and internal staff and has made further revisions to the draft rule based on this feedback. Revisions made to the draft rule since the first workshop include:

- Adding definitions for Baseline Vehicle, Periodic Emissions Inventory, Mobile Source Emission Reduction Credit (MERC), Replacement Vehicle, and Retrofit Vehicle
- Revising definitions of Baseline Emissions, Captive Fleet, Certified Credit, Permanent, Qualifying Emissions, and Surplus
- Revising rule language throughout to delineate emission reductions that have been completed before the application for certification of credits or emissions reductions that have yet to be completed

- Adding citation of Rule 240 (Federal Major New Source Review) in § 100 and § 300 for enforceability
- Revising 301.1b to require additional information on the certified credit application regarding vehicle replacement and retrofit
- Revising 301.2 to include MERC evaluation criteria and a public participation requirement
- Adding 302.1d to allow for submission of an alternative calculation methodology to quantify emission reductions
- Revising 302.2c to specify documentation that must be maintained to demonstrate proper removal or disposal of the baseline vehicle
- Revising 302.2d to require the permitted generator to ensure that any replaced baseline vehicle is not operated in any captive fleet owned or operated by the permitted generator in the applicable nonattainment area
- Adding 302.2e which requires vehicle retrofit compliance with 40 CFR 85, Subpart F
- Adding 302.2f which specifies timing requirements the permitted generator must follow to demonstrate vehicle replacements or retrofits and baseline vehicle removal/disposal
- Adding first in, first out accounting of use of certified credits in § 304.3
- Revising language addressing surplus integrity in § 304.4
- Adding fee provisions under § 400 to provide for fees of ERC calculation review, ERC application processing, and a permit or permit revision.
- Revising and consolidating MERC generation monitoring requirements under § 503
- Revising and consolidating MERC generation recordkeeping requirements under § 504
- Revising Appendix A to further clarify baseline and post project calculations
- Adding Part D of Appendix A to provide a high pollution area incentive for the amount of eligible emission reduction credits

Next Steps: Following the Stakeholder Workshop, MCAQD will evaluate any comments received from stakeholders and make further revisions to the rule if determined necessary. MCAQD anticipates posting the Notice of Proposed Rulemaking to the EROP website in late November or early December, and then presenting the proposed rule to the Board of Health at the January 23, 2023 Board of Health meeting to make a recommendation to the Board of Supervisors to approve the proposed rule creation.

MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 2: Notice of Board of Health Meeting to Initiate Regulatory Change



Enhanced Regulatory Outreach Program
Maricopa County Air Quality Department

Notice of Board of Health Meeting
Rule 205 (Emission Offsets Generated by
Voluntary Mobile Source Emission Reduction Credits)

Date/Time: Monday, January 24, 2022 at 3:00 p.m.

Location: Due to COVID-19 and social distancing guidelines, the Board of Health meeting will be held virtually. [Register ahead of time](#) to join the meeting by phone or computer. You will receive further instructions by email after you register. Visit the Board of Health website to view the [Agendas and meeting minutes](#).

The Maricopa County Board of Health will host a public meeting to review proposed **Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)**. The draft rule and staff report are attached to this notice. After reviewing the proposed rule, the Board of Health will vote on approval of the initiation of regulatory change for Rule 205.

You may comment on the proposed rule using the Enhanced Regulatory Outreach Program [online comment form](#).

AQ-2021-004-Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)

Maricopa County is currently designated as a nonattainment area for both the 2008 and the 2015 ozone National Ambient Air Quality Standard (NAAQS). In ozone nonattainment areas, the Clean Air Act requires owners and operators proposing to construct a new major source or make a major modification to obtain emission offsets before the project may commence. The purpose of Rule 205 is to provide a mechanism for the creation of more emission reduction credits, specifically mobile source emission reduction credits (MERCs), for use as emission offsets. This rule will describe the voluntary procedures an owner or operator of a fleet of vehicles must follow to generate and certify MERCs through the replacement or retrofit of vehicles in their fleet. In addition, the rule will describe the procedures an owner or operator of a major source must follow to utilize MERCs.

The Maricopa County Air Quality Department (MCAQD) will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 3: Board of Health Approval to Initiate Regulatory Change

**MARICOPA COUNTY BOARD OF HEALTH
MEETING MINUTES**

Monday, January 24, 2022, at 3:00 PM

Virtual Meeting due to COVID-19 and social distancing guidelines

President MacMillan called the meeting to order at 3:02 p.m.

ROLL CALL:

Members Present:

Chairman Bill Gates

Debra Baldauff

Don Cassano

Paul Stander

Paula Banahan

Robert MacMillan

Scott Celley

Members Absent: Kristen Acton

Ex-Officio: Marcy Flanagan

1. CALL TO ORDER

President MacMillan

A. Roll Call

B. Call to the Public

President MacMillan called the meeting to order at 3:02pm, addressing the public advising all how to use the chat box to comment or add any questions for the agenda items. There were no requests known to speak at this time; all were informed that they would have the opportunity to type questions using the chat box, which will be acknowledged during and or after the meeting accordingly.

DISCUSSION/ACTION ITEMS:

2. Approval of Minutes

President MacMillan

President MacMillan asked for a motion to approve the minutes from the Board of Health (BOH) meeting held on October 25, 2021. A motion was made by Mr. Cassano to approve the BOH minutes as presented. Mr. Celley seconded the motion. The motion passed unanimously.

3. Public Health Update – FY 2022 Quarter Budget Status Report

Scot Pitcairn

Mr. Pitcairn provided an update for the Public Health Fiscal Year 2022 Budget Status Report. A memo was provided outlining the updates for the below listed funds.

- **Fund 100 – General Fund**

Mr. Pitcairn noted that the memo for the fund 100 should indicate that the department received positions for FY22 not FY23. There were no questions pertaining to the general fund 100.

- **Fund 265 –Public Health Fee Fund**

The forecast show that the department was just coming in under budget and the department will keep an eye on the fund over the next couple of months before submitting an adjustment request. The Refugee fund is a state expense, not federal. When Refugees enter the country, they are placed on an emergency AHCCCS, which is how individuals are provided coverage as far as the Federal government because that's reimbursed. Once individuals are put on emergency AHCCCS, Public Health bills this out using the AHCCCS Program through the insurance providers. If there is a program and AHCCCS does not pay, then yes, the federal government does reimburse, after the denial of the claim. Reimbursements were previously from the Refugee Medical Assistance Program, (the Federal Program), and then it was pushed over to AHCCCS in certain cases, now it's almost 100 percent from the AHCCCS reimbursement. There were no additional questions pertaining to fund 265.

- **Fund 296 – State & Local Recovery Funds/American Rescue Plan Act (ARPA)**

A share of fund 296 supports the finance and rent infrastructure needs of the rest of the COVID related grants. Other major "buckets" of funding include COVID isolation housing (hotel), technology needs for Epidemiology and Public Health, PPE supplies, and an additional regional public health facility in Goodyear, recently purchased. There were no questions pertaining to fund 296.

- **Fund 532 - Grant Fund**

The COVID-related grants are direct federal, or federal fundings passed through the state, and fall into three categories: 1) Epidemiology and Disease Investigations; 2) Immunization; and 3) Health Equity and Disparities. Spending for many of the non-COVID grants is still recovering from the effects of the pandemic. An example was provided such as the Dental Sealant grant. The biggest challenge filling positions, recruitment has still provided applicants for most of the positions, however it's possible that the number of applicants and qualified applicants are affecting recruitment. The labor rate for personnel has increased throughout the nation and one concern is that a lot of the standard operational grants are flat-funded. Human Resources (HR) has done several market studies increasing compensation to help with recruitment. As increases come in, they are struggling to exercise those compensation increases because it doesn't fit within their funding. This is not a good thing or a bad thing, it's simply something that impacts recruiting and grants will need to be addressed in order to have their service levels maintained at the same rate, they're going to have to increase their compensation and reimbursement rates to Public Health to coincide with the increases. The department is struggling with the recruiting pool, as well as the entire nation. The department has loads of funding coming, and yes, some of the grants over the years have been level funded and obviously, cost have increased over time, so that becomes quite a squeeze on some of the grants. During the end of a three or five-year cycle, the grant contract may be adjusted for pay increases. A few have already received some adjustment with compensation and reimbursement rates, mid contract. The department is expecting changes at the end of the contracts for next year. There were no additional questions pertaining to fund 532.

(refer to memo and report summary attached to meeting agenda)

4. Environmental Services Department FY 2022 Quarter Budget Status Report

Ryan Hautzinger

Mr. Hautzinger provided the Board with an update of the Environmental Services Department Fiscal Year 2022 Budget Status Report. A memo was provided outlining the updates for the below listed funds. Environmental Services has relocated to the main county building located at 301 West Jefferson on the 5th floor.

- **Fund 100 - County General Fund**

Mr. Hautzinger reported on Fund 100 as outlined in the Environmental Departments report. There were no questions pertaining to fund 100.

- **Fund 290 – Environmental Tire Fund**

Fund 290 FY 22 trend has reversed through the second quarter of FY 22 which was due to higher second quarter revenues distributed from the State of Arizona through the Tire disposal tax. The memo provided outlines the updates for the tire funds. The theory is that the state distributed the revenue as a result of higher disbursing because of a lag. Although not confirmed, the department is trying to get more communication with the state to see these trends out. The Quarter 3 report will hopefully provide more information. There were no legislation changes. There were no additional questions pertaining to fund 290.

- **Fund 506 – Environmental Fee Fund**

As predicted in the quarter 1 report, Fund 506 was revenue was much stronger these past three months in the 2nd quarter and created a positive variance in the fund. There were no additional questions pertaining to fund 506.

(refer to memo and report summary attached to meeting agenda)

A. Air Quality Department

Greg Verkamp
Kimberly Butler

Mr. Verkamp directed the board to the department’s memo and agenda action item requesting to approve the initiation of regulatory change for rule 205 - AQ-2021-004 titled “Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits”, which was previously distributed to the board for their review. The rule requires action to be recorded by the members of the board.

Approve initiation of regulatory change for the following rule 205 – AQ-2021-004:

AQ-2021-004

Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)

Maricopa County is currently designated as a nonattainment area for both the 2008 and the 2015 ozone National Ambient Air Quality Standard. In ozone nonattainment areas, the Clean Air Act requires owners and operators proposing to construct a new major source or make a major modification to obtain emission offsets before the project may commence. Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank for large businesses to use as emission offsets. The purpose of this rulemaking is to create a new economic development rule which will provide a mechanism for the creation of more emission reduction credits, specifically mobile source emission reduction credits (MERCs), for use as emission offsets.

The purpose of the rulemaking is to create a new economic development rule, which will provide a mechanism for the creation of more emission reduction credits, specifically, what are called mobile source emission reduction credits, or MERCs as people often refer to them, for use as emission offsets. On January 10th a stakeholder workshop was held to discuss the proposed rule. The department is in the process of evaluating the comments

that were received during the workshop. In addition, the department is also in the process of discussing the rule with the EPA to obtain their feedback as they move forward in the rulemaking process. Including the EPA in the process is crucial to ultimately getting approval of rule 205 from the EPA. Air Quality intends to host at least one more workshop after further discussions with the EPA and will eventually return before the board to request a recommendation to the Board of Supervisors. Air quality is requesting for the board of health's approval to initiate the rulemaking.

It was noted that the record retention for emissions date back for a five-year period. In order to calculate the baseline emissions, the two most recent and representative years are what's considered a normal operating condition and you can go back as far as five years. Using the example of individual plants keeping a 10-year record keeping, the board suggested during times of economic downturn, the five-year record keeping is not the best. Air Quality will evaluate the board's suggestion and report back to the board on its findings. President Macmillan questioned if there was a mobile source regarding emission credits, or if it was something new? Mr. Verkamp referred to Rule 204, mobile source, like on-site equipment, there wasn't on-road, it was all off road, like baggage handlers at the airport as an example. Mobile source is new, and the department is looking at on-road vehicles, such as this rule, which is going to focus on fleets of vehicles, captive fleets. A discussion was had pertaining to the city fleets that operate within the non-attainment area or the delivery companies, (UPS, FedEx) that have these fleets of vehicles and decide to modify them to be more efficient vehicles and pollute less, which is the focus of those types of fleet vehicle. A comment was had at the workshop regarding including credit for VOC or PM 2.5 reductions, the department is looking at modifying the rule to allow for credit for other pollutants beyond NOx. The department reviewed two rules and showed there wasn't a lot or any use of them. A discussion about old fleets not having a GPS was had, and a question about whether a statement like an affidavit from mileage records can legitimize area use being in the ozone non-attainment area, the credits have to be justified as being taken. This issue came up during a workshop, the idea that does every fleet vehicle have to have a GPS installed, the department is in the process of reaching out to that stakeholder to see what they propose as alternatives. But, as far as recordkeeping and the GPS, the mileage, in order for the EPA to review and approve, they have to determine that the MERCs are enforceable. It was also noted that the new vehicles must be used the same way the generator was using the replaced vehicles. The department would need to get it approved locally; however, it won't be usable until the EPA approves it. There were no additional comments had.

President MacMillan asked if anyone wanted to make a motion to approve initiation of regulatory change for Rule 205 - AQ-2021-004. Mr. Celley made a motion to approve Rule 205 and Mr. Cassano seconded the motion. All were in favor.

5. Fee Waiver Applications Fifteen (15) permit fee waiver approval requests

Robert Stratman

- A. [01-24-22 Fee Waiver Staff Report.pdf](#)
- B. [01-24-22 Fee Waiver Application Summary Sheet.pdf](#)

The department received 15 Permit Fee Waiver applications and staff determined that all met the criteria outlined in the Environmental Health Code. The criteria - an operator of a charitable non-profit establishment, which operates predominantly for the poor distressed or underprivileged that may apply to the Board of Health for the waiver of a permit. A waiver may be granted only if the operator maintains a current 501 (c)3 tax-exempt status and demonstrates that the payment of the said fee will cause a financial hardship. In addition, a waiver of fees associated with the administering and issuance of a food employee certificate in compliance with Arizona revised statute, Article 41-1080, may be granted to a current student enrolled in a K through 12 culinary arts school program or similar curriculum based programs requiring food employee certificates. The sponsoring school district must demonstrate to the board of health that payment of said fees will cause financial hardship. All 15 fee waiver applications reviewed this quarter appear to meet the criteria. The department is asking for the board's approval of the 15 fee waiver application summary sheet labeled P1-P13 and C1 through C2. The

department has two different application types that are reviewed. 1) Permit side, and yes, schools who do serve food to students are required to get a permit from the department, 2) Classes K-12 Culinary Arts program, those are not required, if it's done as a part of classrooms, typically to obtain a permit. However, some of the services they provide help students obtain a Food Handling Certificate, a lot of the programs will prepare students for work. Students working in a food establishment must have a certificate, schools providing the programs, and coordinating with the department to provide the training to then subsequent certificates to meet the criteria. It's not the students being served; it's the student in the program who would need to meet the criteria. Any school that can meet the criteria would qualify for the fee waiver, and it's not that the students they're serving are the underprivileged or poor; it's the students that are obtaining the certificates that fall into that category that are receiving the food training certificates. Most schools don't have a 501(C)3, so it's not expected that all schools within the county would apply or meet the criteria, and that's where the fee waiver comments relate to the permits. The fee waiver for the certificates is related to the students in those classes receiving that training. So, there's a potential differentiation there between who is being served and what the training is for. Therefore, it's not expected that there would be a considerable increase in fee waivers because not every school in the county would meet the fee waiver criteria.

(memo and report summary attached to meeting agenda)

President MacMillan asked if there was a motion to approve the 15 fee waiver applications presented as P1 through P13 and C1-C2. A motion was made by Mr. Celley to approve the fee waiver applications labeled as P1 through P13, and C1-C2. The motion was seconded by Mr. Cassano. All were in favor, the motion carried.

Discussion Items

6. Public Health Report

Marcy Flanagan

- A. Human Resources
- B. Communications
- C. Infrastructure
- D. Strategic Planning
- E. Programs
- F. Disease Update
- G. Health Status/Community Health Needs Assessment (CHNA)
- H. Future Topics

Lilliana Cardenas

Ms. Flanagan provided the board with the COVID-19 case updates for Maricopa County.

COVID-19 Update

- Maricopa County case count 10,482 as of last week, the county has had over 16,000 cases in just one day
- Maricopa County hit over 1 million cases,
- Maricopa County related Covid deaths 14,304 (increased with surge of the Omicron cases)
- Hospital Positive patients' cases trends upward, but not as high as last winter
- Hospital cases are not as high as last year, possibly because there is a vaccine available now, which has helped, also Omicron isn't having severe outcomes as previous training, specifically, the Delta variant. The case count usually lags about two weeks behind the county's case count. The hope is that the hospitalizations level off and start trending down as well.
- Hoping that Maricopa County has reached our peak and cases begin to trend downward.

- Rate of transmission per 100,000 residents, benchmark for January 2nd through the 8th was 1775 per 100,000, the following week increased to 2008 per 100,000 which put the county community spread rate twenty times higher, once Omicron took over the case rates exploded.

In review of the last few weeks of December, first weeks of January shows that the county was up as high as 36% of test positive cases, which indicates that there is not enough testing in the county. Rapid over the counter test are hard to come by, same day appointments have become difficult for most to get into a provider office for testing.

(A more detailed report is attached to the agenda)

Children and Schools

One in six cases are among children here in Maricopa County. When the Delta variant began in April. And these were our percent of Kobe cases among children less than 18. It really increased, when school went back in session, you saw in August, you see that it's come down a little bit. We know that part of the reason it came down November, December, is they had their fall, and winter breaks happening. So, it has started to go up slightly. However, we're not to where we were in August 2020 when school went back in session, which is a good thing, mainly due to with the vaccine now being available for all school aged children, which happened at the beginning of December.

- Children account for 7% of hospitalizations
- Newly identified school outbreaks continued to rise
- As of 1/19/22 - there were 363 ongoing school outbreaks
- The county is now under the 363 cases reported

(A more detailed report is attached to the agenda)

NEW CDC Guidance

Pfizer-BioNTech ^[1]	Moderna ^[1]	Johnson & Johnson's Janssen ^[1,2]
Ages Recommended 5+ years old	Ages Recommended 18+ years old	Ages Recommended 18+ years old
Primary Series 2 doses ^[3-4] Given 3 weeks (21 days) apart ^[5]	Primary Series 2 doses ^[3] Given 4 weeks (28 days) apart ^[5]	Primary Series 1 dose
Fully Vaccinated 2 weeks after final dose in primary series	Fully Vaccinated 2 weeks after final dose in primary series	Fully Vaccinated 2 weeks after 1st dose
Booster Dose Everyone ages 12+ should get a booster dose at least 5 months after the last dose in their primary series. <ul style="list-style-type: none"> • Teens 12-17 should only get a Pfizer-BioNTech COVID-19 Vaccine booster • Everyone 18+ should get a booster dose of either Pfizer-BioNTech or Moderna (mRNA COVID-19 vaccines) 	Booster Dose Everyone ages 18+ should get a booster dose of either Pfizer-BioNTech or Moderna (mRNA COVID-19 vaccines) at least 5 months after the last dose in their primary series.	Booster Dose Everyone ages 18+ should get a booster dose of either Pfizer-BioNTech or Moderna (mRNA COVID-19 vaccines) at least 2 months after the first dose of J&J/Janssen COVID-19 Vaccine. You may get J&J/Janssen in some situations .

Up To Date on COVID Vaccines

The message to get vaccinated and stay up to date was encouraged.

Up to date – means a person has received all recommended COVID-19 vaccines, including any booster dose(s) when eligible.

Fully vaccinated – means a person has received their primary series of COVID-19 vaccines.

Ms. Flanagan continued to report on new isolation guidance, quarantine: **Not** Up to date on COVID vaccines, Up to date on COVID vaccines and Quarantine: Exposed & Confirmed COVID as shown below. (Full presentation is attached to the agenda)



New Isolation Guidance

<p>IF YOU Tested positive for COVID-19 or have symptoms, regardless of vaccination status</p>	<p>Stay home for at least 5 days Stay home for 5 days and isolate from others in your home.</p> <p>Wear a well-fitted mask if you must be around others in your home.</p>	<p>Ending isolation if you had symptoms End isolation after 5 full days if you are fever-free for 24 hours (without the use of fever-reducing medication) and your symptoms are improving.</p> <p>Ending isolation if you did NOT have symptoms End isolation after at least 5 full days after your positive test.</p> <p>If you were severely ill with COVID-19 You should isolate for at least 10 days. Consult your doctor before ending isolation.</p>	<p>Take precautions until day 10</p> <p>Wear a mask Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.</p> <p>Avoid travel</p> <p>Avoid being around people who are at high risk</p>
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Quarantine: Not Up To Date on COVID Vaccines



Quarantine: Not Up-To-Date on COVID vaccines

<p>IF YOU Were exposed to COVID-19 and are NOT up-to-date on COVID-19 vaccinations</p>	<p>Quarantine for at least 5 days</p> <p>Stay home Stay home and quarantine for at least 5 full days.</p> <p>Wear a well-fitted mask if you must be around others in your home.</p> <p>Get tested Even if you don't develop symptoms, get tested at least 5 days after you last had close contact with someone with COVID-19.</p>	<p>After quarantine</p> <p>Watch for symptoms Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.</p> <p>If you develop symptoms Isolate immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.</p>	<p>Take precautions until day 10</p> <p>Wear a mask Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.</p> <p>Avoid travel</p> <p>Avoid being around people who are at high risk</p>
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Quarantine: Up-To-Date on COVID vaccines

IF YOU
Were exposed to COVID-19 and are [up-to-date](#) on COVID-19 vaccinations

No quarantine
You do not need to stay home **unless** you develop symptoms.

Get tested
Even if you don't develop symptoms, get tested at least 5 days after you last had close contact with someone with COVID-19.

Watch for symptoms
Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.

If you develop symptoms
[Isolate](#) immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.

Take precautions until day 10

Wear a mask
Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.

Avoid travel

Avoid being around people who are at high risk

Quarantine: Exposed & Confirmed COVID



Quarantine: Exposed & Confirmed COVID

IF YOU
were exposed to COVID-19 and had confirmed COVID-19 within the past 90 days (you tested positive using a viral test)

No quarantine
You do not need to stay home **unless** you develop symptoms.

Watch for symptoms
Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.

If you develop symptoms
[Isolate](#) immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.

Take precautions until day 10

Wear a mask
Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.

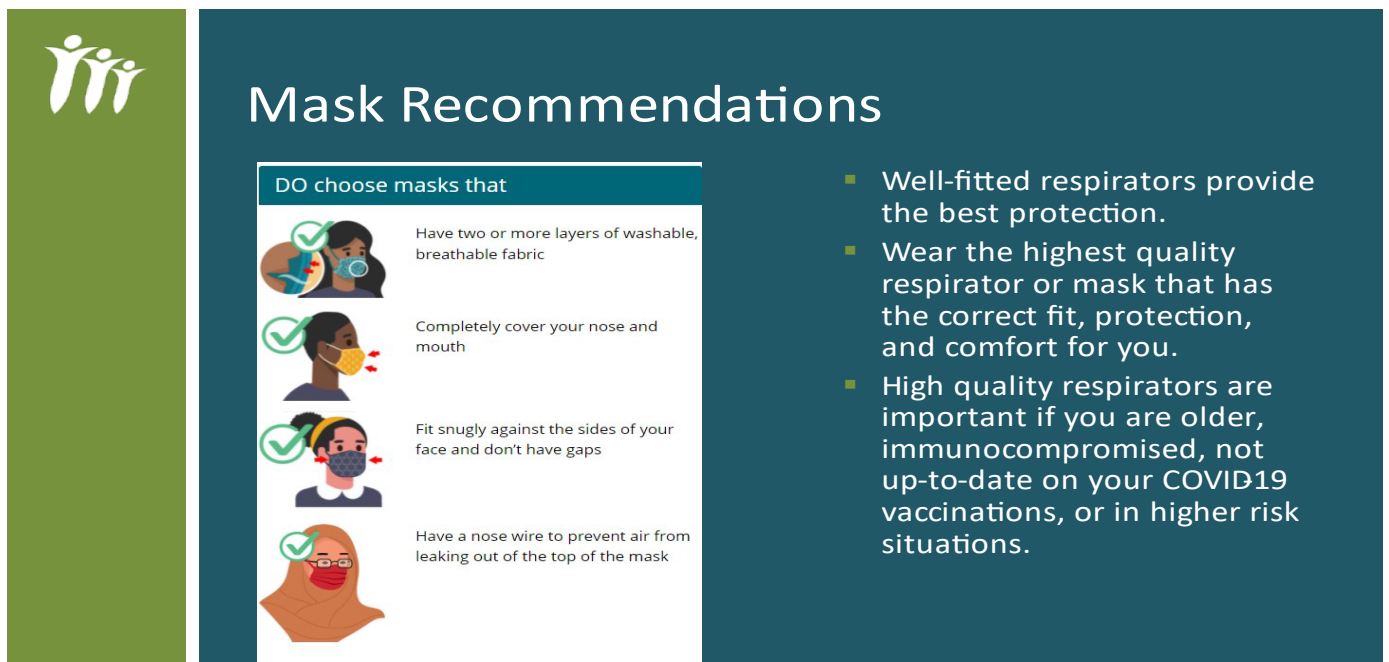
Avoid travel

Avoid being around people who are at high risk

Contact the Public Health office should anyone need additional information or visit the www.maricopa.gov/covid website for more information.

New Federal Initiatives

- At-home test kits
 - The White House started the “At-home test kit program” with the goal of providing free rapid at-home test kits to every household in America
 - Individuals can go to: www.COVIDTests.gov to order their kits
 - Test kits usually ship 7-12 days after ordering
- **Free N95 masks for public**
 - The Biden Administration is making 400 million N95 masks available to Americans for free.
 - Masks will come from the Strategic National Stockpile & will be available for the public to pick up at tens of thousands of local pharmacies and community health center sites across the country.
 - The Administration is starting to ship masks at the end of this week, and masks will start to be available at pharmacies and community health centers late next week. The program will be fully up and running by early February.
 - This is the largest deployment of personal protective equipment in U.S. history.
- **Important message (Masks)**
 - **Any mask is better than no mask.**
 - CDC continues to recommend that you wear the most protective mask you can that fits well and that you will wear consistently.
 - Masks and respirators are effective at reducing transmission when worn consistently and correctly.
 - Some masks and respirators offer higher levels of protection than others, and some may be harder to tolerate or wear consistently than others. **It is most important to wear a well-fitted mask or respirator correctly that is comfortable for you and that provides good protection.**
 - While all masks and respirators provide some level of protection, **properly fitted** respirators provide the highest level of protection.



Mask Recommendations

- Well-fitted respirators provide the best protection.
- Wear the highest quality respirator or mask that has the correct fit, protection, and comfort for you.
- High quality respirators are important if you are older, immunocompromised, not up-to-date on your COVID19 vaccinations, or in higher risk situations.

Ms. Flanagan responded to questions at the conclusion of the presentation.

- What were the relative percentages among patients hospitalized?
 - The county is seeing that upwards of 80, and more times, not locally. What they've heard from the CEOs or CMOS is that they're seeing 90% of the hospitalizations or more are *unvaccinated* individuals. The vast majority of hospitalized cases are in those who are unvaccinated.
- What were the most up to date numbers on the percentages of those vaccinated in Maricopa County using those definitions presented?
- What the county is working on now is trying to extrapolate that data from the AHCCCS System, which is the statewide system that tracks vaccines, unfortunately, what happened early on is the weight tracking was done for covert 19 vaccine. It wasn't really categorized in these series and booster and knowing what means up to date for some individuals as opposed to others for instance; if someone is immunocompromised, they have recommended more doses for those individuals. So, at this point, public health hasn't been able to separate the data to show the up to date versus fully vaccinated.

The numbers of individuals who are fully vaccinated and Maricopa County were right around that, 55%, it's unknown if that number is based on fully vaccinated. Public Health doesn't know how much of that 52 or 55% is up to date, meaning that they have their boosters as well. The public health team is really trying to work with the ADA just to make sure that they can have accurate data on that, but unfortunately there is no way to currently with the way numbers are pulled, the data and information from the Arizona DHS to differentiate between the two, but the department is working on that.

- What is the quarantine within congregate settings, are the recommendations for jails and group homes?
 - The information is different, the presentation relates to the general public. Long-term care facilities and assisted living retirement communities, share congregate housing. There are other considerations, and that's all available on the county's website as well as the CDC website, especially in those situations, because it's typically considered an outbreak situation when cases happen in those settings. It's not just an exposure, like a community exposure or family exposure. You're typically having an outbreak, and so those are treated differently.
- The recommendation is for everyone to be tested when a family member in close contact tests positive.
- Maricopa county has seen more infection in children than early on in the pandemic when another household member was positive
- The bigger contributing factor is that there is more spread happening in children
- Omicron has affected more children, then other variants at the beginning of COVID

Public health conducts a community health needs assessment (CHNA) every 3-5 years. Maricopa County commonly conducts this report every 3 years. Ms. Cardenas provided the purpose of the CHNA and continue to present the information using the presentation slides attached to the agenda emphasizing how COVID-19 impacted the data.

Purpose of CHNA



- MAPP: Mobilizing for Action through Planning and Partnership
- Comprehensive data collection of a community to identify strengths, needs, and health priorities.
- Establishes the priorities for the development of a Community Health Improvement Plan (CHIP).
- Required of all tax-exempt hospitals as part of the Patient Protection and Affordable Care Act.
- Influences allocation of funds and resources for health improvement
- Conducted every 3 years



An outline of the presentation reported on consisted of:

- Collaboration for Health Improvement
- CHNA Partnership Process
- COVID-19 Impact Survey
- Focus groups and Summary of Participants
- Impact on Mental, Physical and Behavioral Health
- Primary barriers to accessing healthcare in communities
- Impact on Addition/Substance Abuse/ Food Insecurity
- Vaccine options and Qualitative Analysis

During the focus groups conversations provided that there were a lot of concerns surrounding the vaccine.

- Long term side effects
- Fertility, brushed vaccine development
- FDA approval
- Vaccine cost

There was a lot of confusion in the community, especially some of the harder to reach communities, that they had to pay for the vaccine. Some doctors, offices, clinics, and places that were providing the vaccine, unfortunately, hadn't ironed out all the bugs and billing, and so sometimes people would receive a bill, and then they would tell their friends and their neighbors, how they were charged when it was a mistake. And that's not what was supposed to be happening. There was often some confusion there. The group saw a lot of folks that just didn't perceive themselves to be high risk. At this point, most everyone has heard a story of someone who was surprised they got COVID, and they died, comments usually followed that "they always seem so healthy, we never thought". Unfortunately, that has been something that has affected so many people, and then when asked about how people were getting information. Doctors and primary care providers still are a strong influence because most people have trust again in their doctors and primary care faith and faith leaders, and community leaders and elders.

The results of the community data collection efforts, can be accessed on the website:

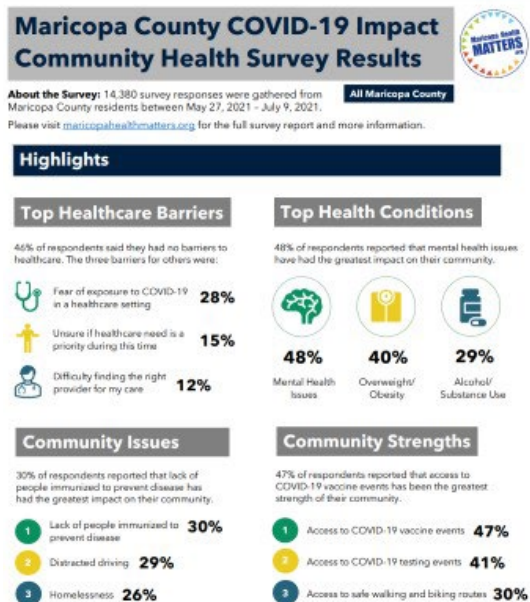
www.maricopahealthmatters.org



MCDPH is committed to sharing the results of community data collection efforts to improve public health strategies and support our community partners, visit:

www.maricopahealthmatters.org

- Current CHNA and CHIP Reports
- Past CHNA and CHIP Reports
- Regional & City Profiles
- Synapse Hospital & Healthcare Partnership
- Health Improvement Partnership of Maricopa County (HIPMC)
- MySidewalkData Dashboard



MCDPH created snapshots for each of our five regions as well as county wide. Several cities were included that also were able to collect sufficient data to have their own profile. This is a huge benefit to the city. The data is a rich source of information of the community and also uses to leverage. When they write grants or submit proposals for any type of project, they really can show this. So, the department receives a lot of buy in from the community, organizations, hospitals and municipalities because of this work.

Next Steps...

Data driven funding & resource allocation.

- RFP – Regional Funding to address Health Disparities, focus on priority issues by region up to \$12.5 million
- RFP – Countywide Funding to address Health Disparities, focused on Access to Healthcare up to \$1.5 million
- Establish Community Advisory Boards per region to develop and inform Regional Community Health Improvement Plans.

MCDPH received 26.5 million dollars, from the Center for Disease Control to address health disparities. The department is in the process of open request for proposals to provide regional funding to address health disparities. Public health is allocating 12.5 million to be distributed within the five regions approximately 2.5 million per region and 1.5 million for county-wide initiatives that address access to health care, the regional ones are health disparities. So those that get funded are going to come together and create these regional community advisory boards to really get more information on the community, and really work with them to develop action plans, and really help public health get back on track. The department expressed being excited that this work is really leading to some educated data, driven decisions, funding and resource allocation ends. Ms. Cardenas referred the board to the flyer distributed to the public. Community members were involved in the pre-conference bids asking various questions. There were almost 140 participants on the call expressing interest in applying for funding.

Mental health was identified as a big issue considering that most individuals had changes in their job or employment status. Risk factors like obesity has been a topic of concern during the pandemic. The department has seen some short-term negative impact from obesity and the ability to try to reverse those trends. At the conclusion of the CHNA report, the board expressed their appreciation for all the work that goes into producing the data presented and that it provided a broader view of the community needs.

Announcements and Current Events

**President/
Board Members**

None

Adjournment

President MacMillan

There being no further business, Mr. Cassano made a motion to adjourn the meeting and Ms. Balduff seconded the motion. The motion passed unanimously. The meeting was adjourned at 5:00 p.m.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 4: Notice of Availability and Notice of Proposed Rulemaking

This is not an invoice

PNI-Arizona Business Gazette

AFFIDAVIT OF PUBLICATION

**MC AIR QUALITY DIV
301 W JEFFERSON ST # 410
PHOENIX, AZ 85003-2157**

NOTICE OF PROPOSED RULEMAKING FOR MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS The Maricopa County Air Quality Department (MCAQD) posted a Notice of Proposed Rulemaking on the Maricopa County Enhanced Regulatory Outreach Program website at www.maricopa.gov/3536/Active-Regulatory-Process regarding the proposed creation of Maricopa County Air Pollution Control Regulations, Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443. MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.
Pub: December 8, 15, 2022

This is not an invoice

Order # 0005508013 # of Affidavits: 1

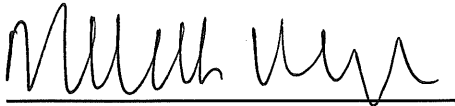
P.O # Proposed Rulemaking

Issues Dated:

12/08/22, 12/15/22

**STATE OF WISCONSIN }
COUNTY OF BROWN } SS.**

I, being first duly sworn, upon oath deposes and says: That I am the legal clerk of the Arizona Republic, a newspaper of general circulation in the counties of Maricopa, Coconino, Pima and Pinal, in the State of Arizona, published weekly at Phoenix, Arizona, and that the copy hereto attached is a true copy of the advertisement published in the said paper in the issue(s) dated indicated.



Sworn to before me this

15 TH day of
DECEMBER 2022


Notary Public

My Commission expires: 9/9/25

VICKY FELTY
Notary Public
State of Wisconsin



**Enhanced Regulatory Outreach Program
Maricopa County Air Quality Department**

**Notice of Proposed Rulemaking
Rule 205 (Emission Offsets Generated by
Voluntary Mobile Source Emission
Reduction Credits)**

The Notice of Proposed Rulemaking (NPR) for Maricopa County Air Pollution Control Regulations, Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits) is attached to this document. The NPR was posted on the Maricopa County Enhanced Regulatory Outreach Program (EROP) website on December 7, 2022 pursuant to Arizona Revised Statute § 49-471.04. You may comment on the proposed rule using the EROP [online comment form](#).

MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.

**NOTICE OF PROPOSED RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

**RULE 205: EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE
EMISSION REDUCTION CREDITS**

The Maricopa County Air Quality Department (MCAQD) is proposing to create Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). The Control Officer is posting this notice of proposed rulemaking on the Maricopa County Enhanced Regulatory Outreach Program (EROP) website, as required by Arizona Revised Statute (A.R.S.) § 49-471.04. This notice includes the preamble, as prescribed in A.R.S. § 49-471.05, and the full text of the proposed rule.

PREAMBLE

1. Statutory authority for the rulemaking (A.R.S. § 49-471.05(1)):

A.R.S. §§ 49-112, 49-474, 49-479 and 49-480

2. Name and address of department personnel with whom persons may communicate regarding the rulemaking (A.R.S. § 49-471.05(2)):

Name: Will Adrian or Kimberly Butler
Maricopa County Air Quality Department
Planning and Analysis Division

Address: 301 W. Jefferson St., Suite 410
Phoenix, AZ 85003

Telephone: 602-506-6010

Fax: 602-506-6179

Email: AQPlanning@maricopa.gov

Online: [Submit a Comment](#)

3. Rulemaking process (A.R.S. § 49-471.05(3)):

This rulemaking is following procedures identified in state statutes and the Maricopa County EROP Policy.

County Manager Briefing: November 2, 2021

Stakeholder Workshops: January 10, 2022

November 2, 2022

Board of Health Meeting to Initiate Regulatory Change: January 23, 2022

Written comments regarding the proposed rulemaking may be submitted to MCAQD through the EROP website (see Item #2 of this notice). Comments received prior to January 08, 2023, at 5:00 p.m. will be considered before MCAQD prepares the Report to the Board of Health. Written comments received through the EROP website will be considered formal

comments to the Notice of Proposed Rulemaking and will be responded to in the draft Notice of Final Rulemaking as part of the Report to the Board of Health and Report to the Board of Supervisors.

An oral proceeding will be scheduled only upon receipt of a written request before January 8, 2023, at 5:00 p.m.

After January 8, 2023, MCAQD will present the final language of the proposed rule and a summary of formal comments on the proposed rule to the Board of Health. The Board of Health will review this information and vote on making a recommendation to the Board of Supervisors. If the Board of Health votes to recommend approval of the proposed rule, then MCAQD will request a public hearing with the Maricopa County Board of Supervisors. At the public hearing, the Board of Supervisors will vote on the proposed rule.

To help assist in reviewing this rulemaking, all Stakeholder Workshop notices and associated draft rules, workshop slides/presentations and Board of Health reports are posted on the EROP website.

4. Explanation of the rule, including the control officer's reasons for initiating the rulemaking (A.R.S. § 49-471.05(4)):

MCAQD is proposing to create Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). Maricopa County is currently designated as a moderate nonattainment area for both the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) and the 2015 8-hour ozone NAAQS. In ozone nonattainment areas, the Clean Air Act (CAA) requires an owner or operator proposing to construct a new major source or proposing to construct a major modification of an existing major source to obtain emission offsets that exceed emission increases from the proposed project before the project may commence. In the case of an ozone moderate nonattainment area, such as Maricopa County, the CAA requires an owner or operator proposing to construct a new major source or proposing to construct a major modification of an existing major source to obtain 1.15 tons of emission offsets for every 1.0 ton of proposed emission increases from the project.

Recently, several inquiries have been made for expanding existing major sources or locating new major sources in Maricopa County. Sources that are interested in expanding or locating new major sources in Maricopa County may not be able to obtain enough emission offsets to move forward with these projects. As a result, industrial growth for certain major sources in Maricopa County could be limited.

The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the CAA for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary fleet vehicle replacement or retrofit, allow for the generation, certification, and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

5. **Studies relied on in the control officer's evaluation of or justification for the rule and where the public may obtain or review the studies, all data underlying the studies, any analysis of the studies and other supporting material (A.R.S. § 49-471.05(5)).**

No studies were relied on in the control officer's evaluation of the rule.

6. **An economic, small business and consumer impact statement (A.R.S. § 49-471.05(6)):**

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement, as prescribed by A.R.S. §§ 41-1055, subsections A, B and C, and 41-1035:

An identification of the proposed rulemaking, including all of the following (A.R.S. § 41-1055(A)(1)):

This rulemaking is proposing to create Rule 205. Participation in the generation, certification, and utilization of MERCs is voluntary.

- (a) **The conduct and its frequency of occurrence that the rule is designed to change (A.R.S. § 41-1055(A)(1)(a)).**

MCAQD is proposing to create Rule 205 to allow for the generation, certification, and utilization of MERCs, specifically from captive fleet vehicles.

- (b) **The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed (A.R.S. § 41-1055(A)(1)(b)).**

Currently, there is a limited amount of VOC and NO_x credits available in Maricopa County. The lack of available credits adversely impacts Maricopa County's economy by limiting the ability of certain major stationary sources to locate or expand operations within Maricopa County. If Rule 205 is not created, the ability for certain major stationary sources to locate or expand in Maricopa County will continue to be limited.

- (c) **The estimated change in frequency of the targeted conduct expected from the rule change (A.R.S. § 41-1055(A)(1)(c)).**

MCAQD is proposing to create Rule 205 to allow for the generation, certification, and utilization of MERCs, specifically from captive fleet vehicles.

A brief summary of the information included in the economic, small business and consumer impact statement (A.R.S. § 41-1055(A)(2)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

This rulemaking is anticipated to have an overall positive impact on Maricopa County's economy. The generation and certification of MERCs will allow more large businesses wishing to construct new major sources or make major modifications to existing major sources in Maricopa County to meet the emission offset requirement of the CAA. In addition, the owner or operator of a captive fleet of vehicles that generates and certifies

MERCs will benefit by being able to sell MERCs to the large businesses needing them for emissions offsets.

Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement (A.R.S. § 41-1055(A)(3)).

Name: Will Adrian or Kimberly Butler
Maricopa County Air Quality Department
Planning and Analysis Division

Address: 301 W. Jefferson St., Suite 410
Phoenix, AZ 85003

Telephone: 602-506-6010

Fax: 602-506-6179

Email: AQPlanning@maricopa.gov

Online: [Submit a Comment](#)

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking (A.R.S. § 41-1055(B)(2)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. Both the permitted generator and the user of the MERCs will bear the costs and benefits from the proposed rulemaking.

The owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated to replace or retrofit the captive fleet vehicles; however, they will benefit from the ability to generate MERCs and, ultimately, sell the certified MERCs for a profit.

The owner or operator of a major stationary source needing emission offsets will bear the cost of purchasing the certified ERCs but will benefit from the ability to construct a new major stationary source in Maricopa County or make a major modification to an existing major stationary source in Maricopa County.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking (A.R.S. § 41-1055(B)(3)(a)).

The cost incurred by MCAQD to review ERC applications and certify ERCs has been accounted for by the ERC application processing (for certification) fee under § 401 Fees of this rule. The cost incurred by MCAQD to inspect and verify compliance of the permitted generator with Rule 205 has been accounted for by permitting costs incurred through § 301.1 Application of this rule and Rule 280 (Fees), which must be provided by the permitted generator to ensure the permanency and enforceability of the certified MERCs.

The cost to the Arizona Department of Environmental Quality (ADEQ) of administering the Arizona Emissions Bank has been, and is expected to continue to be, minimal as stated in ADEQ's Notice of Final Rulemaking (25 A.A.R. 1433, June 14, 2019).

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking (A.R.S. § 41-1055(B)(3)(b)).

Participation in the generation, certification, and utilization of MERCs is voluntary. Nevertheless, in the event a political subdivision such as the City of Phoenix elects to become a permitted generator, or owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs, they will bear the costs associated to replace or retrofit the captive fleet vehicles. Additionally, the political subdivision who is an owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated with ERC application processing and obtaining a new permit or permit revision to impose conditions to make reductions in qualifying emissions permanent and enforceable. However, the political subdivision who is an owner or operator of a captive fleet of vehicles will benefit from the ability to generate MERCs and sell the certified MERCs for a profit, which MCAQD expects will sufficiently offset the aforementioned costs.

(c) The probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rulemaking (A.R.S. § 41-1055(B)(3)(c)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. Both the permitted generator and the user of the MERCs will bear the costs and benefits from the proposed rulemaking.

The owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated to replace or retrofit the captive fleet vehicles. Additionally, the owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated with ERC application processing and obtaining a new permit or permit revision to impose conditions to make reductions in qualifying emissions permanent and enforceable. However, the owner or operator of a captive fleet of vehicles will benefit from the ability to generate MERCs and sell the certified MERCs for a profit, which MCAQD expects will sufficiently offset the aforementioned costs.

The owner or operator of a major stationary source needing emission offsets will bear the cost of purchasing the certified ERCs but will benefit from the ability to construct a new major stationary source in Maricopa County or make a major modification to an existing major stationary source in Maricopa County.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking (A.R.S. § 41-1055(B)(4)).

The probable impact on private and public employment in businesses directly affected by the proposed rulemaking is expected to be positive. The generation of more ERCs will allow more businesses to locate and expand in Maricopa County, thereby increasing the overall economic growth and expansion.

A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:

(a) An identification of the small businesses subject to the proposed rulemaking (A.R.S. § 41-1055(B)(5)(a)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

The small businesses subject to Rule 205 are the owners or operators of captive fleet vehicles that choose to reduce or eliminate emissions from gasoline and diesel-powered fleet vehicles.

(b) The administrative and other costs required for compliance with the proposed rulemaking (A.R.S. § 41-1055(B)(5)(b)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

Administrative Costs: Small business choosing to generate and certify MERCs must comply with the application and recordkeeping requirements of the rule.

Other Costs: Small business choosing to generate and certify MERCs will bear costs associated with the cost to replace or retrofit captive fleet vehicles and the cost of any monitoring equipment required by the rule to ensure the continued generation of MERCs.

(c) A description of the methods that the agency may use to reduce the impact on small businesses (A.R.S. § 41-1055(B)(5)(c)).

i. Establish less stringent compliance or reporting requirements in the rule for small businesses (A.R.S. § 41-1035(1)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. This rule has the minimum reporting requirements allowed by the CAA and EPA.

ii. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses (A.R.S. § 41-1035(2)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. This rule has the minimum reporting requirements allowed by the CAA and EPA.

iii. Consolidate or simplify the rule's compliance or reporting requirements for small businesses (A.R.S. § 41-1035(3)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. MCAQD is not aware of any way to consolidate or simplify the rule's compliance or reporting requirements, but MCAQD provides the Business Assistance Program to provide information and technical assistance for permit holders including the small business community.

iv. Establish performance standards for small businesses to replace design or operational standards in the rule (A.R.S. § 41-1035(4)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

v. Exempt small businesses from any or all requirements of the rule (A.R.S. § 41-1035(5)).

Participation in the generation, certification, and utilization of MERCs is and will remain voluntary.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking (A.R.S. § 41-1055(B)(5)(d)).

This rulemaking will not impose any costs to private persons or consumers. The citizens and visitors to Maricopa County will benefit through the reduction of air pollutants and economic growth.

A statement of the probable effect on state revenues (A.R.S. § 41-1055(B)(6)).

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives (A.R.S. § 41-1055(B)(7)).

MCAQD is not aware of any less intrusive or costly methods to achieve the purpose of this rulemaking.

A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data (A.R.S. § 41-1055(B)(8)).

Not applicable.

7. The proposed effective date of the rule (A.R.S. § 49-471.05(7)):

The proposed effective date of this rulemaking is April 12, 2023.

8. Such other matters as are prescribed by statute and that are applicable to the county or to any specific rule or class of rules (A.R.S. § 49-471.05(8)):

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the ADEQ for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either;
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance, or regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). This is a rule creation and there is no previous version of the rule to compare for stringency.

EXACT WORDING OF THE RULE

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

**RULE 205
EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
REDUCTION CREDITS**

INDEX

SECTION 100 – GENERAL

- 101 PURPOSE
- 102 APPLICABILITY

SECTION 200 – DEFINITIONS

- 201 ACCOUNT HOLDER
- 202 ARIZONA EMISSIONS BANK
- 203 BASELINE EMISSIONS
- 204 BASELINE VEHICLE
- 205 CAPTIVE FLEET
- 206 CERTIFIED EMISSION REDUCTION CREDIT
- 207 EMISSION REDUCTION CREDIT (ERC) or CREDIT
- 208 ENFORCEABLE
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC)
- 210 OFFSETS
- 211 PERIODIC EMISSIONS INVENTORY
- 212 PERMANENT
- 213 PERMITTED GENERATOR
- 214 QUALIFYING EMISSIONS
- 215 QUANTIFIABLE
- 216 REAL
- 217 REPLACEMENT VEHICLE
- 218 RETROFIT VEHICLE

219 SURPLUS

SECTION 300 – STANDARDS

- 301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION REDUCTIONS BY A PERMITTED GENERATOR
- 302 MERC GENERATION
- 303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK
- 304 USE OF THE CERTIFIED CREDITS

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- 401 FEES

SECTION 500 – MONITORING AND RECORDS

- 501 RECORDKEEPING AND RECORDS RETENTION
- 502 INSPECTIONS
- 503 MERC GENERATION MONITORING
- 504 MERC GENERATION RECORDS

APPENDIX TO RULE 205

APPENDIX A: CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH VEHICLE REPLACEMENT OR RETROFIT

Adopted MM/DD/YYYY

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

RULE 205

**EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
REDUCTION CREDITS**

SECTION 100 – GENERAL

- 101 PURPOSE:** To facilitate the creation and trading of mobile source emission reduction credits (MERCs) for use as offsets by a stationary source under Rule 240 (Federal Major New Source Review (NSR)) of these rules by providing a process for:
- 101.1** Generating mobile source emission reduction credits for reductions achieved by permitted generators.
 - 101.2** Certifying credits as meeting offset requirements in advance of the certified credits' use for that purpose.
 - 101.3** Registering certified credits generated under this rule in the Arizona Emissions Bank.
 - 101.4** Using certified credits generated under this rule registered in the Arizona Emissions Bank.
 - 101.5** Using certified credits generated under this rule not registered in the Arizona Emissions Bank.
- 102 APPLICABILITY:** The provisions of this rule apply to the following persons and entities:
- 102.1** The owner or operator of a captive fleet of vehicles who holds or intends to obtain a Maricopa County Air Quality Department Stationary Source Permit and has achieved or will achieve reductions in qualifying emissions in compliance with this rule.
 - 102.2** The owner or operator of a permitted stationary source that intends to use certified credits as offsets.

SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.

- 201 ACCOUNT HOLDER:** Any person or entity who has opened an account with the Arizona Emissions Bank.
- 202 ARIZONA EMISSIONS BANK:** The system created by the Arizona Department of Environmental Quality (ADEQ) to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.
- 203 BASELINE EMISSIONS:** The average rate at which a baseline vehicle would have actually emitted the pollutant in absence of generating emission reductions during the two

preceding calendar years, or two calendar years more representative of normal emissions within the 5-year period immediately before the reduction in qualifying emissions.

- 204 BASELINE VEHICLE:** Captive fleet vehicle that has been replaced or retrofitted for a reduction in qualifying emissions.
- 205 CAPTIVE FLEET:** A fleet of vehicles where all the vehicles in the fleet are identifiable, the locations where they are being operated can be tracked and recorded, their base of operation is in a nonattainment area within the jurisdiction of MCAQD, and which can serve as a permanent source of emission reductions when a vehicle is replaced or retrofitted. The captive fleet can include on-road or off-road vehicles.
- 206 CERTIFIED EMISSION REDUCTION CREDIT:** An emission reduction credit that has met the criteria in this rule for certification and has been issued by the Maricopa County Air Quality Department (MCAQD). Certified credits do not have property rights associated with them.
- 207 EMISSION REDUCTION CREDIT (ERC):** A reduction in qualifying emissions, expressed in tons per year as rounded down to the nearest one tenth (1/10) of a ton, for which a permitted generator has submitted an application pursuant to this rule.
- 208 ENFORCEABLE:** Specific measures for assessing compliance with an emissions limitation, control, or other requirement established in a permit or in this rule in a manner that allows compliance to be readily determined by, but not limited to, an inspection of records and reports.
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC):** An ERC generated from a captive fleet vehicle.
- 210 OFFSETS:** Reductions in emissions required under Rule 240 (Federal Major New Source Review (NSR)) of these rules.
- 211 PERIODIC EMISSIONS INVENTORY:** In accordance with section 172(c)(3) of the Clean Air Act, the base year emissions inventory within the Maricopa County nonattainment area for the relevant conventional air pollutant or the most recent periodic update.
- 212 PERMANENT:** A reduction in qualifying emissions used to offset emissions increases that are enduring for the remaining life of the corresponding emissions increase.
- 213 PERMITTED GENERATOR:** The owner or operator of a captive fleet of vehicles that has or intends to obtain a Maricopa County Air Quality Permit that has made or proposes to make reductions in qualifying emissions.
- 214 QUALIFYING EMISSIONS:** Emissions of any conventional air pollutant quantified in the periodic emissions inventory, other than elemental lead, or any precursor of a conventional air pollutant from any activity when generated within the Maricopa County nonattainment area associated with the conventional air pollutant.

- 215 **QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and addressed in terms of character. Quantification may be based on emission factors, vehicle emissions testing, monitored values, operating rates, and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
- 216 **REAL:** A reduction in actual emissions released to the air resulting from a physical change or change to the method of operations by a permitted generator.
- 217 **REPLACEMENT VEHICLE:** Vehicle used to generate certified credits that is certified to an emission limit less than the baseline vehicle it replaces and is in compliance with the most recent applicable federal emission standard at the time of replacement.
- 218 **RETROFIT VEHICLE:** Captive fleet vehicle that has or will have any alteration, including components, design, and instructions to perform this alteration, of the vehicle or engine, its fueling system, or the integration of these systems, that allows the vehicle or engine to operate on a fuel or power source different from the fuel or power source for which the vehicle or engine was originally certified; and that is designed, constructed, and applied in compliance with the requirements in 40 CFR 85 and 86.
- 219 **SURPLUS:** A reduction in qualifying emissions below the emission limitations and standards used to comply with any otherwise federally applicable requirements and is not relied upon to meet any requirements in the State Implementation Plan (SIP).

SECTION 300 – STANDARDS

301 **CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION REDUCTIONS BY A PERMITTED GENERATOR:**

301.1 **Application:**

- a. The permitted generator may apply for certified credits for reductions in qualifying emissions for a vehicle replacement or retrofit that will comply with the applicable requirements in § 302 (MERC Generation) of this rule and by filing either of the following with the Control Officer in accordance with Rule 210 (Title V Permit Provisions) or Rule 220 (Non-Title V Permit Provisions) of these rules:
 - (1) An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable; or
 - (2) An application for a permit seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable.
- b. An application for certified credits shall be filed with the Control Officer on the form prescribed by the MCAQD and shall include:
 - (1) Information on the identity, type, ownership, and location of the permitted generator;

- (2) Inventory of the captive fleet, as specified in § 504.2, for which a replaced or retrofitted vehicle resulted or will result in reductions in qualifying emissions;
- (3) A description of the vehicle replacement or retrofits that have resulted or will result in surplus reductions in qualifying emissions, as well as a description of how the reductions in qualifying emissions will be permanent;
- (4) Information on the methodology for quantifying the surplus reductions in qualifying emissions for each pollutant subject to the application, including emissions calculations;
- (5) Information on the proper removal or disposal of baseline vehicles if the reductions in qualifying emissions were accomplished through vehicle replacement;
- (6) Information on the conversion system used if the reductions in qualifying emissions will be accomplished through vehicle retrofit;
- (7) Other information or records necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, federally enforceable, and real;
- (8) The actual date or anticipated date of the reductions in qualifying emissions, as applicable; and
- (9) A signed statement by a responsible official, as defined in Rule 100 (General Provisions and Definitions) of these rules, verifying the truthfulness and accuracy of all information provided in the application.

301.2 Action on Application: The Control Officer shall review the application for certified credits and:

- a. Evaluate whether the requested MERCs will be real, quantifiable, federally enforceable, permanent, and surplus and determine whether the MERCs meet the requirements of § 302 for generating MERCs.
- b. Provide public participation on the Control Officer's proposed determination to issue certified credits and a permit or permit revision per the provisions in Section 407 of Rule 220 of these rules. This requirement applies to all proposed actions to issue certified credits according to this rule. The proposed determination shall include the proposed permit or permit revision and the Control Officer's underlying analysis for proposing to certify the MERCs.
- c. If the Control Officer determines the requested credits meet the requirements of this rule and should be certified then the Control Officer shall:
 - (1) Issue either a permit or permit revision that incorporates the requirements of § 302.2, and any other necessary requirements to make the reductions in qualifying emissions permanent and enforceable.
 - (2) Issue one certified credit for each ton, as rounded down to the nearest one tenth (1/10) of a ton, per year of reduction that qualifies as permanent, quantifiable, surplus, federally enforceable, and real.

(3) Provide the applicant with a certificate representing the number of certified credits issued. The certificate shall specify that the credits were certified under this rule and shall specify whether the reductions in qualifying emissions have been implemented or the date by which the reductions are required to be implemented.

d. If the Control Officer determines that none of the requested MERCs should be certified, then the applicant will be notified, and no credits will be issued and no permit or permit revision will be issued.

301.3 Registration of Certified Credits in the Arizona Emissions Bank: Certified credits may be registered in the Arizona Emissions Bank but registration is not required. See § 303 (Registration of Certified Credits in the Arizona Emissions Bank) of this rule for procedures regarding registration of certified credits in the Arizona Emissions Bank.

302 MERC GENERATION: A permitted generator that plans to replace or retrofit all or part of their captive fleet to generate a reduction in qualifying emissions:

302.1 May apply to certify MERCs by meeting the following requirements:

a. **Location:** Demonstrate that the captive fleet of vehicles used to generate credits shall be based and operated within a nonattainment area within the jurisdiction of the MCAQD. Certified credits may only be granted for those reductions generated while operating in the nonattainment area. A baseline vehicles operation inside and outside the nonattainment area must be quantifiable.

b. **Quantification of Baseline Emissions:** The permitted generator shall quantify baseline emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.

c. **Quantification of Emission Reductions:**

(1) The permitted generator shall quantify the post project emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.

(2) Calculations shall only include surplus reductions and shall not include emission reductions created or used under any other emissions trading program, emission reductions used to satisfy the State Implementation Plan including transportation conformity requirements, or any emissions reductions pursuant to a federal consent decree, or state and local settlements.

d. **Alternative Calculation Methodology:** A permitted generator may use an alternative calculation methodology to quantify emission reductions upon approval from the Control Officer and the Administrator. All alternative calculation methodologies shall be submitted to the Administrator after completion of the public participation process in § 301.2, and shall include any

public comments received and the Control Officer's response to the public comments. The Administrator shall be provided 60 days to review the submittal. Written approval from the Administrator is required prior to using an alternative calculation methodology.

- 302.2** Shall comply with all of the following operating, maintenance, monitoring, removal/disposal, replacement, and recordkeeping requirements:
- a. Operation and Maintenance:** The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer's written instructions or the maintenance schedule provided by the manufacturer's authorized service provider.
 - b. Monitoring of Captive Fleet:** The permitted generator shall monitor the replacement or retrofitted vehicles in the captive fleet used to generate credits as specified in § 503 to ensure the replaced or retrofitted vehicles continue to generate permanent emission reductions as represented in the application in § 301.1(b)(3).
 - c. Removal/Disposal of Replaced Baseline Vehicles:** The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas.
 - d. Subsequent Vehicle Replacements:** The replacement or retrofitted vehicles that were used to acquire certified credits shall only be subsequently replaced with vehicles certified to an emission limit equivalent to or less than the replacement or retrofitted vehicle used to acquire certified credits and shall comply with the most recent applicable federal emission standard. This replacement requirement shall continue for 20 years from the issuance date of the certified credits. The permitted generator shall further ensure that any replaced baseline vehicle is not operated in any other captive fleet owned or operated by the permitted generator in the applicable Maricopa County nonattainment area.
 - e. Vehicle Retrofit:** The permitted generator shall ensure the retrofit vehicle used for generating certified credits satisfies the exemption from tampering prohibition of clean alternative fuel conversions through compliance with 40 CFR 85, Subpart F, and a valid corresponding certificate of conformity or notification submission to the EPA.
 - f. Timing:** The permitted generator shall demonstrate vehicle replacements or retrofits and removal/disposal of baseline vehicles occurred prior to the application for certified credits or shall meet an enforceable timeline established

in the permit or permit revision required by § 301.2(c)(1) that specifies how and by when this demonstration will be met.

g. Monitoring and Recordkeeping: Upon issuance of a permit or permit revision under this rule, a permitted generator is responsible for monitoring and recordkeeping as required in:

- (1) Section 501 (Recordkeeping and Records Retention);
- (2) Section 502 (Inspections);
- (3) Section 503 (MERC Generation Monitoring); and
- (4) Section 504 (MERC Generation Records).

303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK: The permitted generator may register certified credits with the Arizona Emissions Bank. To register a certified credit:

303.1 Owner or Operator: The permitted generator shall:

- a. Indicate on the MCAQD emission reduction credit application their plan to register the certified credits in the Arizona Emission Bank; and
- b. Open an Arizona Emissions Bank account per A.A.C. R18-2-1206.A.

303.2 Control Officer: The Control Officer shall notify the ADEQ of the number of certified credits issued to the permitted generator on a form prescribed by the ADEQ.

304 USE OF THE CERTIFIED CREDITS:

304.1 Certified Credits Registered in the Arizona Emissions Bank:

- a. An account holder who intends to use the certified credits under this rule held in its account as offsets shall file an application to use the certified credits on the form prescribed by the ADEQ.
- b. On approval of the application by the ADEQ, the Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the user of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and

- (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
- c. The Control Officer shall provide notice to the ADEQ of the final action on the stationary source's application for a permit or for a permit revision and of any changes in the number of certified credits.
- d. Reductions in qualifying emissions reflected in the number of certified credits shall be implemented before actual operation of the new stationary source or modification begins.

304.2 Certified Credits Not Registered in the Arizona Emissions Bank:

- a. The owner or operator of a stationary source who intends to use certified credits that are not registered in the Arizona Emissions Bank as offsets shall:
 - (1) Notify the MCAQD of the intention to use the certified credits as an offset to meet the requirements of Rule 240 (Federal Major New Source Review) of these rules; and
 - (2) Submit the certificate of issued certified credits to the MCAQD in conjunction with a stationary source permit application or permit revision.
- b. The Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the owner or operator of the number of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.

304.3 First In, First Out Accounting: The owner or operator of the stationary source using certified credits must use the oldest credits in their possession first.

304.4 Review of MERC Integrity: At the time of use of certified credits under this rule, the Control Officer shall review whether the amount of previously issued certified credits remain surplus under this rule and shall revise the amount if necessary to maintain surplus integrity. Any certified credits proposed to be used where the reductions in qualifying emissions were not implemented at the time of MERC application shall only be used if the reductions will be implemented before the new stationary source or modification using the credits begins operation of the new source or modification.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 FEES

401.1 A fee may be charged for the following:

- a. Preliminary ERC Calculations Review:** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When review of ERC calculations is complete the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing ERC calculations and the balance due.
- b. ERC Application Processing (for Certification):**
 - (1)** The minimum fee due shall be an application fee of \$200.
 - (2)** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When application processing is completed and final costs are greater than the combined fees under §§ 401.1a and b(1) of this rule, the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of evaluating and acting upon the application, minus the fee submitted under § 401.1a of this rule, and the balance due.
- c. Permit:** Permit fees applicable to either §§ 301.1a or b of this rule, as set forth in Rule 280 (Fees) of these rules.

401.2 Fee adjustments: The Control Officer shall adjust the hourly rate in §§ 401.1a & b every January 1, to the nearest 10 cents per hour, beginning on January 1, 2018. The Control Officer will multiply \$149.20 by the Consumer Price Index (CPI) for the most recent year and then divide by the CPI for the year 2016.

SECTION 500 – MONITORING AND RECORDS

501 RECORDKEEPING AND RECORDS RETENTION: Records and data required by this section shall be:

- 501.1** Kept on site at all times by the permitted generator in a consistent and complete manner, in either electronic or paper format.
- 501.2** Upon verbal or written request by the Control Officer, the log or the records and supporting documentation shall be provided as soon as possible but no later than 48 hours after the request.
- 501.3** Unless otherwise specified, maintained for five (5) years after the record is created.

502 INSPECTIONS: A permitted generator shall provide the Control Officer with access to the premises for the purpose of conducting an inspection to verify compliance with this rule. An inspection may include, but is not limited to, a review of records and reports.

503 MERC GENERATION MONITORING: The permitted generator shall monitor parameters used to quantify certified credits beginning no later than issuance of the certified credits. All monitoring equipment shall be operated and maintained in accordance with the manufacturer's written instructions. At a minimum, the permitted generator shall monitor the following for each replaced or retrofitted vehicle used for obtaining certified credits:

503.1 Vehicle miles traveled (VMT) as determined by GPS tracking;

503.2 Percent of VMT within the nonattainment area as determined by GPS tracking; and

503.3 Any other parameter used to make the certified credits quantifiable, such as idling speed, idling emissions, or fuel use rate.

504 MERC GENERATION RECORDS: A permitted generator shall maintain the following records of each replacement or retrofitted vehicle in its captive fleet:

504.1 Certified Credit Records: All records supporting the application for which certified credits were granted, including but not limited to: documentation of when a vehicle was retrofitted or replaced, documentation that the baseline vehicle or baseline vehicle engine was disposed of or removed from the nonattainment area, VMT for each baseline vehicle used to generate credits, and percent of VMT within the nonattainment area for each baseline vehicle used to generate credits. The records shall be maintained for at least 5 years following the use of the certified credits, regardless of any defenses under any federal or state statute of limitations.

504.2 Replacement or Retrofitted Vehicle Inventory Records: A detailed inventory of each replacement or retrofitted vehicle used to generate certified credits that shall include all of the following and shall be reviewed and updated on a monthly basis:

a. For each fleet vehicle provide:

(1) The vehicle manufacturer.

(2) The model number.

(3) The model year.

(4) A description of the vehicle including serial number.

(5) Fuel type.

b. The date each vehicle was:

(1) Added to the inventory.

(2) Removed from the inventory.

c. For each vehicle added to the inventory:

(1) Identify the vehicle removed in its place.

(2) The permitted generator must document that the replacement vehicle is certified to equivalent or lower standards than the vehicle or engine used to generate certified credits.

- 504.3 Operational Records:** The following operational records shall be maintained on a monthly basis upon issuance of the certified credits:
- a. Monthly:** For each replacement or retrofitted vehicle used to generate certified credits, the permitted generator shall record a description of all maintenance and repairs, including the results and any corrective actions performed.
 - b. Monthly:** For each replacement or retrofitted vehicle in the captive fleet, maintain monthly records of:
 - (1)** Calendar month VMT.
 - (2)** To date for the calendar year, the percent of VMT within the applicable nonattainment area.
 - (3)** Monthly summary of any other monitoring required by Section 503 of this rule.
- 504.4 Vehicle Retrofit Records:** The permitted generator shall maintain record for each retrofitted vehicle that was used to generate certified credits that demonstrates exemption from tampering prohibition of clean alternative fuel conversions by compliance with 40 CFR 85, Subpart F. This includes the applicable valid certificate of conformity or notification submission to the EPA.
- 504.5 Annual Report:** Upon issuance of certified credits, and within 60 days after December 31 of each calendar year, the permitted generator shall submit an annual report to the Control Officer summarizing the captive fleet's operation and compliance with § 302.2(b) for the previous calendar year and provide: attest that any replaced baseline vehicle is not a part of any other captive fleet owned or operated by the permitted generator in Maricopa County and how this was verified, the current captive fleet inventory as specified by § 504.2, total annual VMT for each vehicle used to generate certified credits, and percentage of VMT each vehicle used to generate certified credits accrued in the applicable nonattainment area that calendar year.

APPENDIX A

CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH VEHICLE REPLACEMENT OR RETROFIT

- A. Baseline Emissions = Annual Utilization (miles/year) × Baseline Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant emitted.
 2. Annual Utilization is the aggregate number of annual average miles (using historical data for the two-year period selected according to the definition of baseline emissions in this rule) of actual vehicle utilization within the applicable nonattainment area.
 3. Baseline Pollutant Emissions Factor is determined using the baseline vehicle fuel type, baseline vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the United States Environmental Protection Agency's (EPA) Motor Vehicle Emission Simulator (MOVES) software. Baseline vehicle engine model year corresponds to the calendar year in which the emission reductions are generated by replacing or retrofitting the baseline vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- B. Post Project Emissions = Annual Utilization (miles/year) × Post-Project Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant.
 2. Annual Utilization is the value from A.2.
 3. Post Project Pollutant Emissions Factor is determined using the replacement or retrofit vehicle fuel type, replacement or retrofit vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the EPA's MOVES software. For a retrofitted vehicle, the vehicle engine model year corresponds to the year the emission reductions are generated by retrofitting the baseline vehicle. For a replacement vehicle, the replacement vehicle engine model year corresponds to the model year of the replacement vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- C. The amount of eligible emission reduction credits for each vehicle is determined by subtracting Post Project Emissions from Baseline Emissions.
- D. **High Pollution Area Incentive:** The permitted generator may be eligible to use an earlier baseline vehicle engine model year to determine the amount of eligible emission reduction credits determined in Section C of this Appendix if the permitted generator can demonstrate the annual utilization of the vehicle occurs at least 75% of VMT within areas of high pollution as identified through EPA's EJScreen (Environmental Justice Screening and Mapping Tool) Environmental Justice Indexes. An area of high pollution shall be considered any area in the 90th national percentile or greater for the credited pollutant or applicable precursors. To be eligible, a gasoline baseline vehicle engine must be no more than 7 years

older than the replaced or retrofitted vehicle engine or a diesel baseline vehicle engine must be no more than 11 years older than the replaced or retrofitted vehicle engine. Once determined to be eligible, vehicles may use a baseline vehicle engine model year that corresponds to the model year of the baseline vehicle.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 5: Notice of Board of Health Meeting to Make a Recommendation to the Board of Supervisors



Enhanced Regulatory Outreach Program
Maricopa County Air Quality Department

**Notice of Board of Health Meeting
Rule 205 (Emission Offsets Generated by
Voluntary Mobile Source Emission Reduction Credits)**

Date/Time: Monday, January 23, 2023, at 3:00 p.m.

**Location: 4041 N. Central Ave., 14th Floor
Phoenix, AZ 85012**

The Board of Health meeting will be held in-person and have an option to attend virtually. If you wish to participate virtually, [register ahead of time](#) to join the meeting by phone or computer. You will receive further instructions by email after you register.

Visit the Board of Health website to view the [Agendas and meeting minutes](#).

The Maricopa County Board of Health will host a public meeting to review the proposed creation of Maricopa County Air Pollution Control Regulation, **Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)**. The staff report is attached to this notice. After reviewing the proposed rule, the Board of Health will vote on making a recommendation to the Board of Supervisors to approve the creation of Rule 205.

You may comment on the proposed rule using the Enhanced Regulatory Outreach Program [online comment form](#).

AQ-2021-004-Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)

The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the Clean Air Act for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary captive fleet vehicle replacement or retrofit, allow for the generation, certification, and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 6: Board of Health Recommendation to the Board of Supervisors

**MARICOPA COUNTY BOARD OF HEALTH
MEETING MINUTES**

Monday, January 23, 2023, at 3:00 PM

In Person & Virtual Meeting

President MacMillan called the meeting to order at 3:02 p.m.

ROLL CALL:

Members Present:

Debra Baldauff
Don Cassano (via phone)
Matthew Farber
Paul Stander (via phone)
Paula Banahan
Robert MacMillan

Members Absent:

Scott Celley
Supervisor Bill Gates
Kristen Acton

Ex-Officio: Marcy Flanagan

1. CALL TO ORDER

President MacMillan

- A. Roll Call**
- B. Call to the Public**

Addressing the public, President MacMillan advised all how to use the chat box to comment or add any questions for the agenda items. Ms. Sampler informed all that there were no requests known to speak at this time; all were told that they would have the opportunity to type questions using the chat box, which will be acknowledged during and or after the meeting accordingly.

DISCUSSION/ACTION ITEMS:

2. Approval of Minutes

President MacMillan

President MacMillan asked if there was a motion to approve the minutes from the Board of Health (BOH) meeting held on October 24, 2022. Dr. Farber motioned to approve the BOH minutes as presented and seconded by Mr. Cassano. The motion passed unanimously.

3. Public Health Update

Scot Pitcairn

2nd Quarter Update - Fiscal Year 2023 Budget Status Report

Mr. Pitcairn provided an update for the Public Health FY23 Quarter 2 Budget Status Report for the funds listed below. The finance memo is attached to the agenda outlining the updates for all funds reported.

- **Fund 100 – General Fund**
- **Fund 265 –Public Health Fee Fund**
- **Fund 293 – Justice Reinvestment Fund**
- **Fund 296 – State & Local Recovery Funds/American Rescue Plan Act (ARPA)**

The board requested additional information for fund 296, Ms. Lee Ann Bohn provided a link to reference [COVID-19 American Rescue Plan Act Funds | Maricopa County, AZ](#).

- **Fund 297- Opioid Settlement Fund**
- **Fund 532 - Grant Fund**

The total amount for the new Workforce Infrastructure grant from the CDC is approximately \$38 million upfront one-time funding to be used over a five-year period and then \$1.7 million annually for each of the next five years. According to Ms. Flanagan, the Infrastructure Grant is the first time that the Federal Government has pledged this amount of funding for public health infrastructure. The purpose is to reinforce the staff that local public health hired during COVID, so when the next pandemic occurs, public health will avoid being behind as was seen nationally. Most of the health departments are trying to catch up so that they are prepared to do contact tracing, case investigation, and other types of work needed. Much of the funding is going to continue employing staff and ensure that public health has a stable minimum infrastructure in the department to respond to emergencies and continue to be an accredited health department to have comprehensive business and finance, grant management kind of department. A lot of the funds are going toward that purpose as well as staffing for additional clinics purchased with the ARPA monies. Those positions are billable activities that occur in the clinic. The CDC advises that the 1.7 million is not only for the five years the health department was rewarded, but the funds will be a part of their permanent budget from the federal government.

A discussion was had about obtaining qualified candidates. Should the department present an offer to a candidate for which they decline the offer, the department would need to start the recruitment process over again. This has caused a change in the pay scale midyear. The county approved a 10 percent pay rate, which made a difference.

There were no additional questions for any of the funds reported.

Environmental Services

Sylvie Donaldson

2nd Quarter Update - Fiscal Year 2023 Budget Status Report

Ms. Donaldson presented the Board with the Environmental Services FY23 Quarter 2 Budget Status Report for the funds listed below. The finance memo is attached to the agenda outlining the updates for all funds reported.

- **Fund 100 - County General Fund**
- **Fund 290 – Environmental Tire Fund**
- **Fund 506 – Environmental Fee Fund**

The department has also seen challenges with its recruitment due to wages; however, the large increase approved by the Board of Supervisors brought some relief to the process. There is a job fair coming up, which the department is hoping will help with recruitment. The board responded that various industries are still facing challenges even with the increase in wages and are not having a lot of success nationally. There were no additional questions for any of the funds reported.

4. Environmental Services Dept. Fee Waiver Applications –
Request for Board of Health approval of twelve (12) fee waiver applicants

Robert Stratman

This quarter, the department reviewed twelve (12) fee waiver applications. Of the applications reviewed, staff determined that all meet the criteria outlined in the Maricopa County Environmental Health Code.

As a reminder, only an operator of a charitable nonprofit establishment that operates to provide relief predominantly for the poor, distressed, or underprivileged may apply to the Board of Health for a waiver of a permit fee. A waiver of a permit fee may be granted only to the operator of an establishment that maintains a current 501(c)(3) tax-exempt designation from the Internal Revenue Service and who demonstrates to the Board of Health that payment of said fee will cause financial hardship. In addition, a waiver of fees associated with the administering and issuance of a food employee certificate (in compliance with A.R.S. § 41-1080) may be granted to a current student enrolled in a K-12 culinary arts school program or similar curriculum-based programs requiring food employee certificates. The sponsoring school district must demonstrate to the Board of Health that payment of said fee will cause financial hardship. Again, all fee waiver applications reviewed this quarter appear to meet the criteria.

The Board had no questions, Mr. Stratman requested approval of the applications on the Fee Waiver Application Summary Sheet labeled P1 through P9 and C1 through C3

(memo and report summary attached to meeting agenda)

President MacMillan asked if there was a motion to approve the 12 fee waiver applications presented as P1 through P9 and C1-C3. A motion was made by Mr. Cassano to approve P1 through P9 and C1-C3 fee waiver applications and seconded by Ms. Baldauff. All were in favor, and the motion carried.

5. Air Quality Department

**Greg Verkamp
Kimberly Butler**

Mr. Verkamp and Ms. Butler presented AQ-2021-004 Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits) to the board, requesting that the board make a recommendation to the Board of Supervisors to approve the creation of Rule 205.

Maricopa County is currently designated as a nonattainment area for both the 2008 and the 2015 ozone National Ambient Air Quality Standard. In ozone nonattainment areas, the Clean Air Act requires owners and operators proposing to construct a new major source or make a major modification to obtain emission offsets before the project may commence. Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank for large businesses to use as emission offsets. The purpose of this rulemaking is to create a new economic development rule which will provide a mechanism for the creation of more emission reduction credits, specifically mobile source emission reduction credits (MERCs), for use as emission offsets.

In January 2022, the department requested the initiation of this rulemaking, and it was approved by the board. A summary of the regulatory background was provided, adding that stakeholders expressed support for the rulemaking. In December, the department posted a Notice of Proposed Rulemaking on its EROP website for a 30-day period. The department did not receive any comments after the Notice was posted. The department is requesting that the board make a recommendation to the Board of Supervisors for approval of a new economic

development rule, which is voluntary. Mr. Verkamp emphasized no one is required to comply with rule unless they decide to participate in the MERC program. It was confirmed that there were no comments of opposition to the Rule.

President MacMillan asked if there was a recommendation to the Board of Supervisors to approve the creation of AQ-2021-004 Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). Ms. Banahan made the recommendation, seconded by Dr. Farber. All were in favor of the recommendation to the Board of Supervisors for the creation of AQ 2021-004 Rule 205.

Discussion Items

6. Public Health Report

Marcy Flanagan

- A. Human Resources
- B. Communications
- C. Infrastructure
- D. Strategic Planning
- E. Programs
- F. Disease Update
- G. Health Status/Community Health Needs Assessment (CHNA)
- H. Heat Report
- I. Future Topic
- J. Covid Status Update

Dr. Rebecca Sunenshine

Ms. Flanagan provided the board with Public Health's internal departmental updates informing all that Dr. Sunenshine was invited to give the board a Covid status update later in the meeting.

- New Organizational Departmental Chart was completed end of 2022
- Hired two additional Division Administrators
- New Organizational changes are expected to be completed by mid-February

The primary goal surrounding the new organizational structure was to get programs and departments that have similar functions or focus on the same populations to be answering to the same Division Administrator. So, there's a lot of shuffling going around within the department and clinical services to house all their functions in the same division.

- Business practices will be consolidated and centralized by the mid-Summer or early Fall of 2023
- Achieve more streamlined business operations and services offered to the public

Ms. Flanagan shared that she met with all the Arizona Local Health Officers, and Dr. Thresa Cullen, who currently is the Health Officer for Pima County, was identified as the new Health Officer for ADHS.

Public Health's General Fund 100 shows a positive variance (under budget) year-to-date (Epidemiology), being under by \$590,906; most of this is due to vacancy savings and reallocations of payroll to the ARPA funding. The department is making great efforts to help spend monies by working closely with ASU, U of A, and the county to fill positions. Maricopa County's Human Resource Department has also explored the option to telework out of State for those positions that are hard to fill. The county has also offered sign-on bonuses for positions like a nurse. All these things help with the spending of the General Fund monies being under budget, spending almost \$600,000 in Epidemiology. An example of State-to-State wages was provided. Ms. Flanagan believes that the

county is competitive with its wages and incentives; it is known as a national situation. Public Health pay aligns with others. However, the problem is that the pay the department has and the experience required for that pay match an entry-level in those fields. The county is willing to examine this closely. The incentives are being provided. It was also noted that people in the workforce like to move around nowadays as opposed to historically staying in one position.

Dr. Sunenshine presented the board with an update on infectious diseases giving an overview of each slide.

Global & National COVID-19 update

Global & National COVID-19 Update

Global

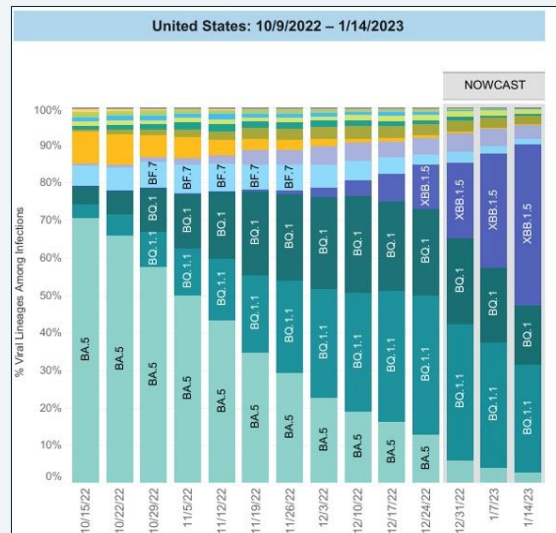
- Per WHO, reported cases have decreased slightly since the prior week; deaths remained fairly constant .
- China reported on January 12 that nearly 60,000 people with COVID-19 have died since early December, not including people who died at home.
- XBB.1.5 identified in Denmark and the UK.

National

- XBB.1.5 increased from 30.4% to 43.0% of sequenced samples.

Region 9 (AZ, CA, NV, HA, Pacific Islands)

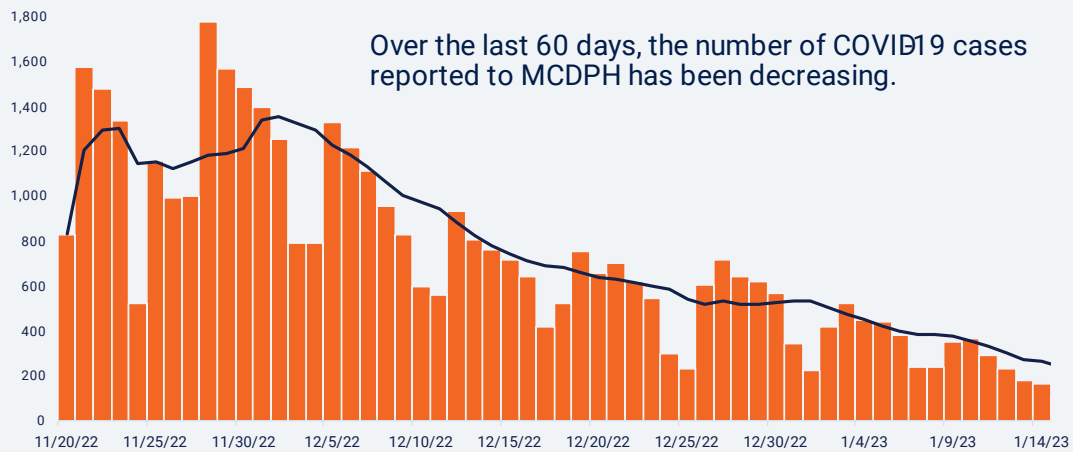
- XBB.1.5 associated with 15.8% of sequenced samples.



- It's believed that what's happening in China will have some global impact.
- Reports show that XBB.1.5 has been spreading rapidly
- Increased media coverage surrounding the newest variant XBB.1.5
- Public Health expects the Coronavirus to constantly mutate, which is what that type of virus does
- XBB.1.5 is rapidly spreading, as shown in Denmark and the UK
- People have immunity to the last variant, XBB.1.5 is very infectious than the last variant; outcompete the last strain
- Almost 43% for National Region 9 classified as how Public Health quality themselves in the preparedness world; were lumped with a bunch of states
- XBB.1.5 constitutes about 16% of all isolated viruses

COVID-19 in Maricopa County

60 - day epi curve



- The epidemiology curve for Maricopa County shows the last 60 days have been on a downward trend with COVID-19 for case numbers
- Many people are not being tested in a lab vs. in their homes, so the numbers are unrepresented here

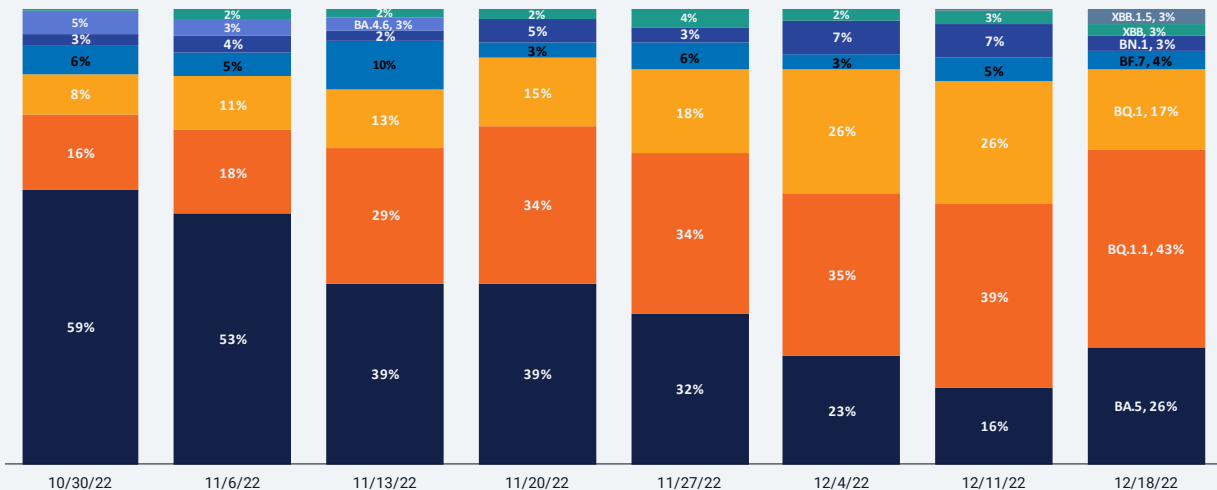
COVID-19 Hospital Metrics



The metric shown are in addition to case counts; the top graph is the number of new admissions due to COVID-19

COVID-19 Variants

COVID-19 Variants

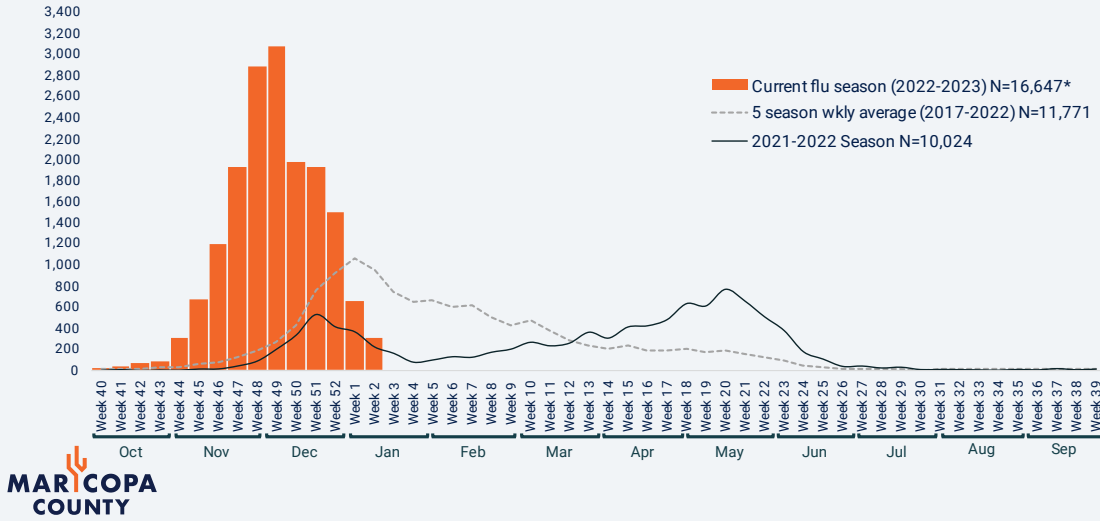


A comparison was provided, displaying XBB.1.5 being at 3% (top right bar) with that of Region 9 being 16% and 43% nationally. The county has a much smaller proportion of XBB.1.5 compared to the rest of the country. The

Reports show that almost every variant trend hits the East coast first and then travels West. Public Health has plans in place to address lots of outbreaks and situations; the difficulty is when something brand new like COVID, it takes time to gather how the virus behaves, spreads, and what mitigation efforts will work. Which helps in the future, but it didn't help when this occurred. No one had ever seen something such as this that lasted this long in over 100 years. There is talk about annual vaccines; however, according to WHO and the CDC, we are still in a pandemic that has lasted over three years, and plans are forming as they move forward.

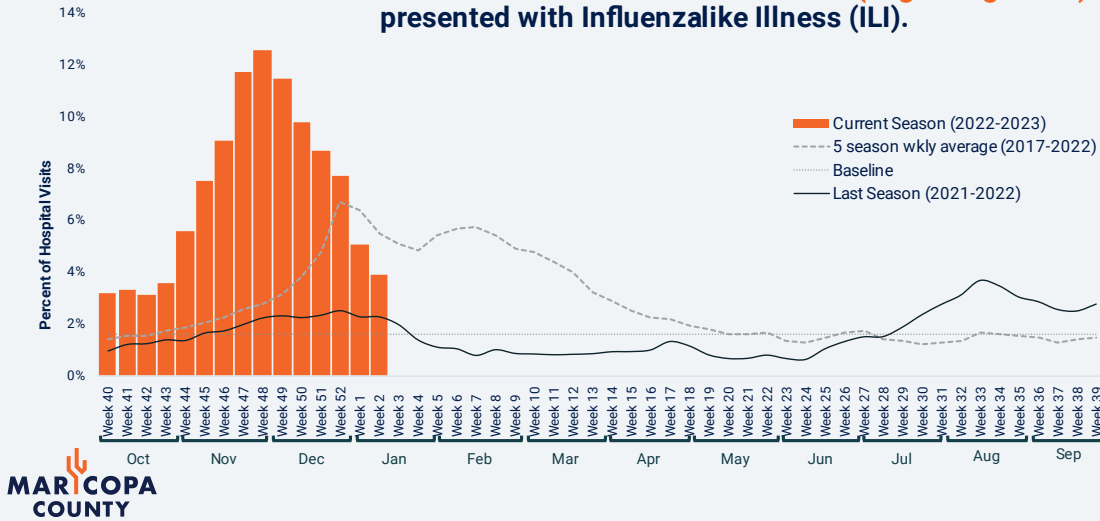
Influenza

There were **301** influenza cases reported in **week 2 (beginning Jan 8)** with a **2022-2023 season total of 16,636** cases.



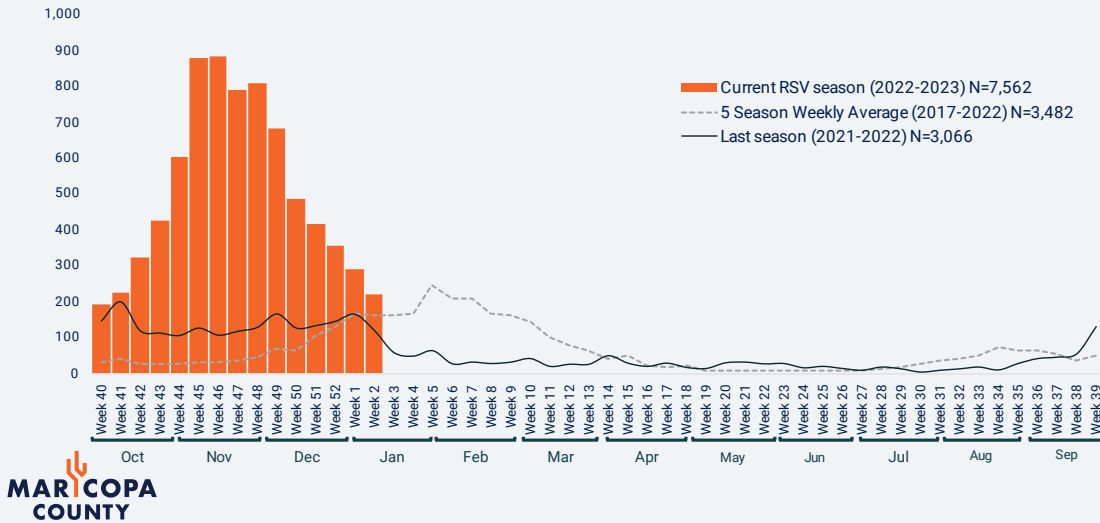
Influenza-like illness in MC hospitals and urgent cares

3.9% of all ED and UC visits in **week 2 (beginning Jan 8)** presented with Influenza-like illness (ILI).



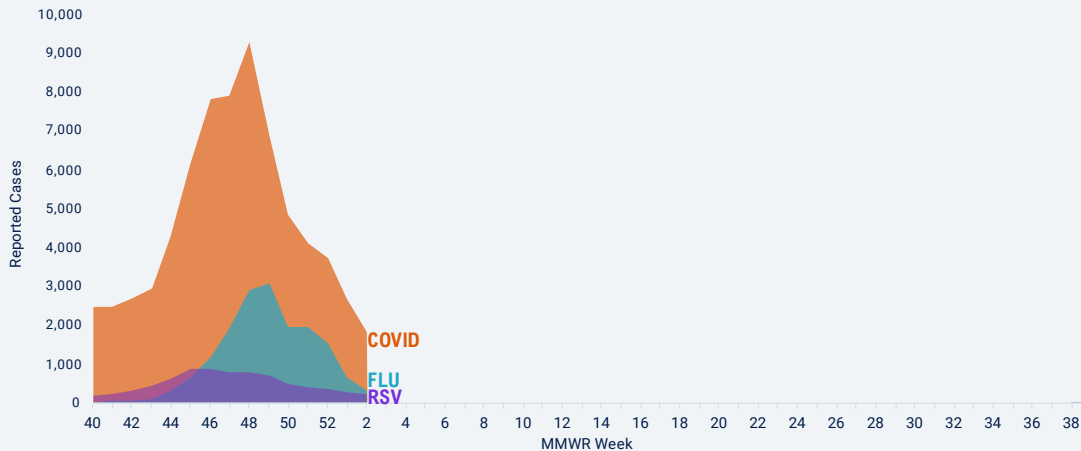
RSV

There were **214 RSV cases** reported in **week 2 (beginning Jan 8)** with a **2022-2023 season total of 7,558 RSV cases**.



COVID-19, influenza, and RSV

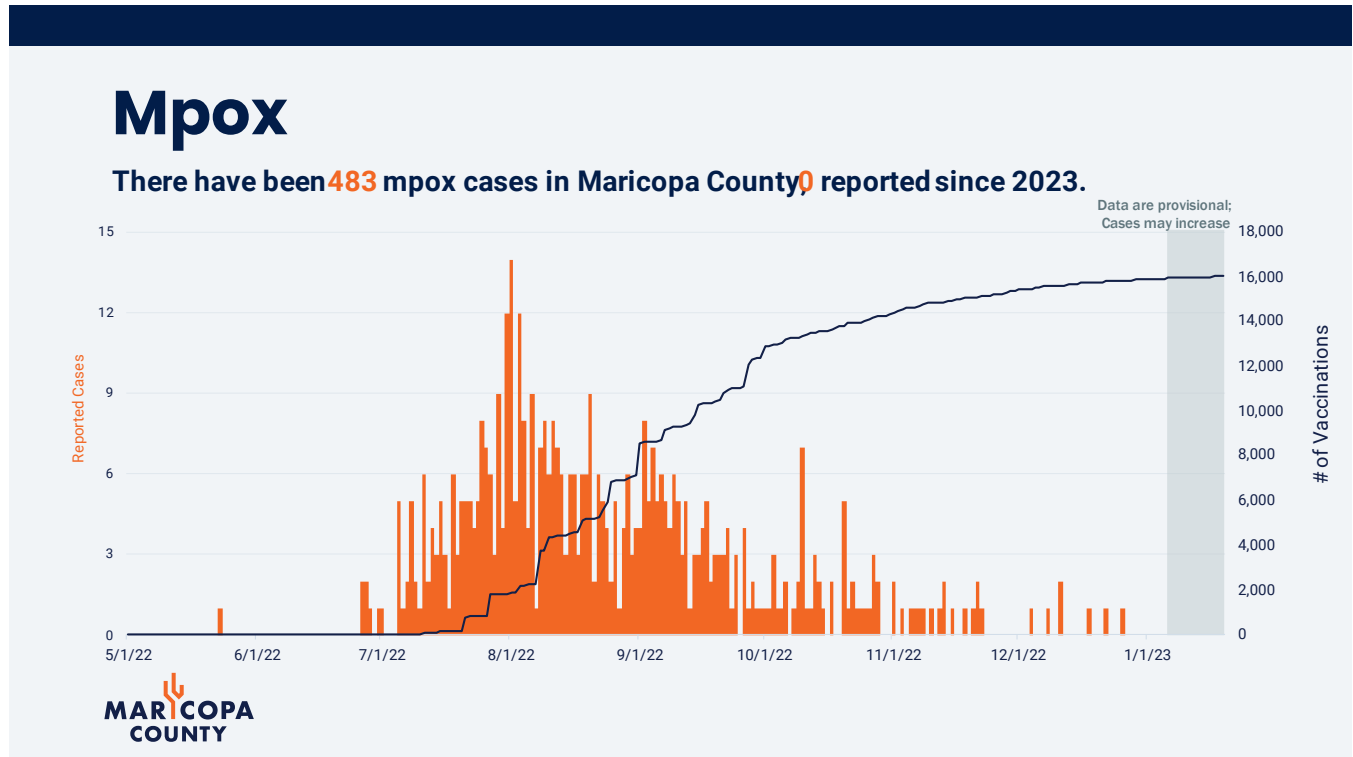
Reported cases of **COVID-19**, **flu**, and **RSV** are decreasing.



An overview of Flu data was shared, showing a dramatic decline. Based on a five-year average, flu season traditionally peaks around the end of December, which is what the charts show. A discussion was had concerning the different times' flu peaks in our county. Public Health is aware that there are still people who need to be vaccinated, and they're still people at very high risk. Public Health will continue to offer vaccinations

and push them out. Fully vaccinated people are nineteen times less likely to die. Being fully vaccinated and getting boosters significantly helps. Public Health receives its guidance from the FDA and CDC.

Mpox (formally known as Monkeypox)



The chart provided an overview of how Mpox peaked in August vs. now there are no cases since January, which is similar to the county’s Hepatitis curve, in which the county was able to provide more vaccinations and knock out the disease, unlike COVID, it has more to do with the way it’s transmitted, and with the portion of the population at risk because that was vaccinated.

Preliminary safety signal among Pfizer Bivalent COVID-19 recipients aged 65+ years

FDA/CDC Press Release (1/13/2023)

- Preliminary signal in CDC's VSD (Vaccine Safety Datalink) "raised a question of whether people 65 and older who have received the Pfizer-BioNTech COVID-19 Vaccine, Bivalent were more likely to have an ischemic stroke in the 21 days following vaccination compared with days 22-42 following vaccination."
 - No similar signal seen for Moderna Bivalent COVID -19 Vaccine
 - No similar signals in other data sets (VAERS, CMS, VA, Pfizer global safety database)
 - No similar signals from other countries
- CDC and FDA are running additional analyses and will present the findings at an FDA VRBPAC meeting on January 26.
- No changes to vaccine recommendations at this time.



<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/bivalentboosters.html>

Dr. Sunenshine closed out her presentation with the Pfizer Bivalent, which has received a lot of media coverage lately. There are no recommendations to change vaccination recommendations at this time, but the department will keep following them.

Announcements and Current Events

There was nothing presented.

Adjournment

There being no further business, Dr. Stander made a motion to adjourn the meeting, and Ms. Baldauff seconded the motion. The motion passed unanimously. The meeting was adjourned at 4:17 p.m.

**President/
Board Members**

President MacMillan

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 7: Notice of Public Hearing

This is not an invoice

PNI-Arizona Business Gazette

AFFIDAVIT OF PUBLICATION

**MC AIR QUALITY DIV
 301 W JEFFERSON ST # 410
 PHOENIX, AZ 85003-2157**

NOTICE OF PUBLIC HEARING FOR MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS AND STATE IMPLEMENTATION PLAN (SIP) REVISION NOTICE IS HEREBY GIVEN that the Maricopa County Board of Supervisors will conduct a public hearing on April 26, 2023, at 9:30 a.m. to solicit comments on the creation of a new rule in the Maricopa County Air Pollution Control Regulations and an associated proposed revision to the Arizona State Implementation Plan (SIP). The Maricopa County Air Quality Department (MCAQD) is proposing to create Maricopa County Air Pollution Control Regulation, Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits) and to submit the rule as a revision to the Arizona SIP. The public hearing will be held at the Maricopa County Board of Supervisors' Auditorium, 205 W. Jefferson St., Phoenix, Arizona 85003. The public is invited to attend the meeting in-person or online. Please check the Board of Supervisors' website at least 24 hours before the date of the public hearing at www.maricopa.gov/324 for directions for remote access. For more information regarding this rulemaking, please refer to the Report to the Board of Supervisors, available at www.maricopa.gov/3536 under item number AQ-2021-004-Rule 205. The SIP submittal will be available at least 30 days prior to the hearing for public inspection at the offices of MCAQD, 301 W. Jefferson St., Suite 410, Phoenix, Arizona 85003. The SIP submittal will also be available at www.maricopa.gov/3536 under item number AQ-2021-004-Rule 205 at least 30 days prior to the hearing. In addition, copies of the Report to the Board of Supervisors and the SIP submittal can be obtained by calling 602-506-6010. MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443. MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443
 Pub: March 16, 23, 2023

This is not an invoice

Order # 0005624669 # of Affidavits: 1

P.O #

Issues Dated:

03/16/23, 03/23/23

**STATE OF WISCONSIN } SS.
 COUNTY OF BROWN }**

I, being first duly sworn, upon oath deposes and says: That I am the legal clerk of the Arizona Republic, a newspaper of general circulation in the counties of Maricopa, Coconino, Pima and Pinal, in the State of Arizona, published weekly at Phoenix, Arizona, and that the copy hereto attached is a true copy of the advertisement published in the said paper in the issue(s) dated indicated.



Sworn to before me this

23 RD day of
 MARCH 2023



Notary Public

My Commission expires: 9/19/25

VICKY FELTY
 Notary Public
 State of Wisconsin



**Enhanced Regulatory Outreach Program
Maricopa County Air Quality Department**

**Notice of Public Hearing
Rule 205 (Emission Offsets Generated by
Voluntary Mobile Source Emission Reduction Credits)**

Date/Time: Wednesday, April 26, 2023 at 9:30 a.m.

**Location: Board of Supervisors' Auditorium
205 W. Jefferson St., Phoenix, Arizona**

The Board of Supervisors meeting will be held in-person and have an option to attend virtually. If you wish to participate virtually, please check the [Board of Supervisors' website](#) at least 24 hours before the date of the public hearing for directions for remote access.

The Maricopa County Board of Supervisors is scheduled to conduct a public hearing to solicit comments on the proposed creation of Maricopa County Air Pollution Control Regulations, Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits) and the proposed submission of the rule as a revision to the Arizona State Implementation Plan (SIP).

You may comment on the proposed rule using the Enhanced Regulatory Outreach Program (EROP) [online comment form](#).

AQ-2021-004-Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)

The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the Clean Air Act for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary captive fleet vehicle replacement or retrofit, allow for the generation, certification, and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

For more information regarding this rulemaking, please refer to the Report to the Board of Supervisors attached to this notice and available on the [EROP Active Regulatory Process webpage](#). A copy of the SIP submittal will be available at least 30 days prior to the hearing for public inspection at the offices of the Maricopa County Air Quality Department, 301 West Jefferson Street Suite 410, Phoenix, Arizona 85003. The SIP submittal will also be available on the [EROP Active Regulatory Process webpage](#) at least 30 days prior to the hearing. In addition, copies of the Report to the Board of Supervisors and the SIP submittal can be obtained by calling 602-506-6010.

MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 8: Board of Supervisors' Approval

COUNTY OF MARICOPA
State of Arizona

Office of the Clerk
Board of Supervisors

State of Arizona) ss.
County of Maricopa)

I, Juanita Garza, Clerk of the Board of Supervisors, do hereby certify that the following is a true and correct statement of the agenda item and the action taken by the Board of Supervisors at their meeting held on April 26, 2023.

9. **AQ-2021-004-RULE 205 (EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION REDUCTION CREDITS)**

Convene a public hearing, as required by Arizona Revised Statutes (A.R.S.) § 49-479(b), to solicit comments on the proposed creation of Maricopa County Air Pollution Control Regulations, Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). Following the public hearing, the Board is requested to adopt the proposed rule and to approve submission of the rule as a revision to the Arizona SIP.

The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the Clean Air Act for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary fleet vehicle replacement or retrofit, allow for the generation, certification, and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

(C-85-23-047-X-00)

Motion to approve by Supervisor Jack Sellers, seconded by Supervisor Thomas Galvin

Ayes: Clint Hickman, Jack Sellers, Thomas Galvin, Bill Gates
Absent: Steve Gallardo



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the County of Maricopa. Done at Phoenix, the County Seat, on April 26, 2023.

Juanita Garza

Clerk of the Board of Supervisors

File

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 9: Notice of Final Rulemaking

April 2023

Notice of Final Rulemaking

Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)

**Maricopa County
Air Quality Department
Planning and Analysis Division**



Notice of Final Rulemaking
Maricopa County Air Pollution Control Regulations
Regulation II – Permits and Fees

**Rule 205 (Emission Offsets Generated by Voluntary Mobile Source
Emission Reduction Credits)**

The Maricopa County Air Quality Department (MCAQD) created Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). The Control Officer is posting this Notice of Final Rulemaking on the MCAQD website as required by Arizona Revised Statute (A.R.S.) § 49-471.07(G). This notice includes the preamble, as prescribed in A.R.S. § 49-471.05, and the full text of the final rule. This notice also includes a list of all previous notices posted on the Maricopa County Enhanced Regulatory Outreach Program (EROP) website addressing the proposed rule and the concise explanatory statement prescribed in A.R.S. § 49-471.07(B).

Preamble

1. Statutory authority for the rulemaking (A.R.S. § 49-471.05(1)):

A.R.S. §§ 49-112, 49-474, 49-479 and 49-480

2. Name and address of department personnel with whom persons may communicate regarding the rulemaking (A.R.S. § 49-471.05(2)):

Name: Will Adrian or Kimberly Butler
Maricopa County Air Quality Department
Planning and Analysis Division

Address: 301 W. Jefferson St., Suite 410
Phoenix, AZ 85003

Telephone: 602-506-6010

Fax: 602-506-6179

Email: AQPlanning@Maricopa.Gov

3. Rulemaking process (A.R.S. § 49-471.05(3)):

This rulemaking followed procedures identified in state statutes and the Maricopa County EROP Policy.

County Manager Briefing: November 2, 2021

Stakeholder Workshops: January 10, 2022

	November 2, 2022
Board of Health Meeting to Initiate Regulatory Change:	January 24, 2022
Notice of Proposed Rulemaking:	December 7, 2022
Board of Health Meeting to Recommend Approval to the Board of Supervisors:	January 23, 2023
Board of Supervisors Formal Meeting to Set the Public Hearing:	March 15, 2023
Board of Supervisors Public Hearing:	April 26, 2023

4. Explanation of the rule, including the control officer's reasons for initiating the rulemaking (A.R.S. § 49-471.05(4)):

MCAQD created Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits). Maricopa County is currently designated as a moderate nonattainment area for both the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) and the 2015 8-hour ozone NAAQS. In ozone nonattainment areas, the Clean Air Act (CAA) requires an owner or operator proposing to construct a new major source or proposing a major modification of an existing major source to obtain emission offsets before the new or modified major source commences operation. In the case of an ozone moderate nonattainment area, such as Maricopa County, the CAA requires an owner or operator proposing to construct a new major source or proposing a major modification of an existing major source to obtain 1.15 tons of emission offsets for every 1.0 ton of proposed emission increases from the project.

Recently, several inquiries have been made for expanding existing major sources or locating new major sources in Maricopa County. Sources that are interested in expanding or locating new major sources in Maricopa County may not be able to obtain enough emission offsets to move forward with these projects. As a result, industrial growth for certain major sources in Maricopa County could be limited.

The purpose of this rulemaking was to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the CAA for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary fleet vehicle replacement or retrofit, allow for the generation, certification, and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

5. Studies relied on in the control officer's evaluation of or justification for the rule and where the public may obtain or review the studies, all data underlying the studies, any analysis of the studies and other supporting material (A.R.S. § 49-471.05(5)).

No studies were relied on in the control officer's evaluation of the rule.

6. An economic, small business and consumer impact statement (A.R.S. § 49-471.05(6)):

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement, as prescribed by A.R.S. §§ 41-1055, subsections A, B and C, and 41-1035:

An identification of the rulemaking, including all of the following (A.R.S. § 41-1055(A)(1)):

This rulemaking created Rule 205. Participation in the generation, certification, and utilization of MERCs is voluntary.

(a) The conduct and its frequency of occurrence that the rule is designed to change (A.R.S. § 41-1055(A)(1)(a)).

MCAQD created Rule 205 to allow for the generation, certification, and utilization of MERCs, specifically from captive fleet vehicles.

(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed (A.R.S. § 41-1055(A)(1)(b)).

Currently, there is a limited amount of VOC and NOx credits available in Maricopa County. The lack of available credits adversely impacts Maricopa County's economy by limiting the ability of certain major stationary sources to locate or expand operations within Maricopa County. If Rule 205 was not created, the ability for certain major stationary sources to locate or expand in Maricopa County would have continued to be limited.

(c) The estimated change in frequency of the targeted conduct expected from the rule change (A.R.S. § 41-1055(A)(1)(c)).

MCAQD created Rule 205 to allow for the generation, certification, and utilization of MERCs, specifically from captive fleet vehicles.

A brief summary of the information included in the economic, small business and consumer impact statement (A.R.S. § 41-1055(A)(2)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

This rulemaking is anticipated to have an overall positive impact on Maricopa County's economy. The generation and certification of MERCs will allow more large businesses wishing to construct new major sources or make major modifications to existing major sources in Maricopa County to meet the emission offset requirement of the CAA. In addition, the owner or operator of a captive fleet of vehicles that generates and certifies MERCs will benefit by being able to sell MERCs to the large businesses needing them for emissions offsets.

Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement (A.R.S. § 41-1055(A)(3)).

Name: Will Adrian or Kimberly Butler
Maricopa County Air Quality Department
Planning and Analysis Division

Address: 301 W. Jefferson St., Suite 410
Phoenix, AZ 85003

Telephone: 602-506-6010

Fax: 602-506-6179

Email: AQPlanning@Maricopa.Gov

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking (A.R.S. § 41-1055(B)(2)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. Both the permitted generator and the user of the MERCs will bear the costs and benefits from the rulemaking.

The owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated to replace or retrofit the captive fleet vehicles; however, they will benefit from the ability to generate MERCs and, ultimately, sell the certified MERCs for a profit.

The owner or operator of a major stationary source needing emission offsets will bear the cost of purchasing the certified ERCs but will benefit from the ability to construct a new major stationary source in Maricopa County or make a major modification to an existing major stationary source in Maricopa County.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies

directly affected by the implementation and enforcement of the rulemaking (A.R.S. § 41-1055(B)(3)(a)).

The cost incurred by MCAQD to review ERC applications and certify ERCs has been accounted for by the ERC application processing (for certification) fee under § 401 Fees of this rule. The cost incurred by MCAQD to inspect and verify compliance of the permitted generator with Rule 205 has been accounted for by permitting costs incurred through § 301.1 Application of this rule and Rule 280 (Fees).

The cost to the Arizona Department of Environmental Quality (ADEQ) of administering the Arizona Emissions Bank has been, and is expected to continue to be, minimal as stated in ADEQ's Notice of Final Rulemaking (25 A.A.R. 1433, June 14, 2019).

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking (A.R.S. § 41-1055(B)(3)(b)).

Participation in the generation, certification, and utilization of MERCs is voluntary. Nevertheless, in the event a political subdivision such as the City of Phoenix elects to become a permitted generator, or owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs, they will bear the costs associated to replace or retrofit the captive fleet vehicles. Additionally, the political subdivision who is an owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated with ERC application processing and obtaining a new permit or permit revision to impose conditions to make reductions in qualifying emissions permanent and enforceable. However, the political subdivision who is an owner or operator of a captive fleet of vehicles will benefit from the ability to generate MERCs and sell the certified MERCs for a profit, which MCAQD expects will sufficiently offset the aforementioned costs.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking (A.R.S. § 41-1055(B)(3)(c)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. Both the permitted generator and the user of the MERCs will bear the costs and benefits from the rulemaking.

The owner or operator of a captive fleet of vehicles that chooses to replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated to replace or retrofit the captive fleet vehicles. Additionally, the owner or operator of a captive fleet of vehicles that chooses to

replace or retrofit captive fleet vehicles to reduce or eliminate emissions and generate MERCs will bear the costs associated with ERC application processing and obtaining a new permit or permit revision to impose conditions to make reductions in qualifying emissions permanent and enforceable. However, the owner or operator of a captive fleet of vehicles will benefit from the ability to generate MERCs and sell the certified MERCs for a profit, which MCAQD expects will sufficiently offset the aforementioned costs.

The owner or operator of a major stationary source needing emission offsets will bear the cost of purchasing the certified ERCs but will benefit from the ability to construct a new major stationary source in Maricopa County or make a major modification to an existing major stationary source in Maricopa County.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking (A.R.S. § 41-1055(B)(4)).

The probable impact on private and public employment in businesses directly affected by the rulemaking is expected to be positive. The generation of more ERCs will allow more businesses to locate and expand in Maricopa County, thereby increasing the overall economic growth and expansion.

A statement of the probable impact of the rulemaking on small businesses. The statement shall include:

(a) An identification of the small businesses subject to the rulemaking (A.R.S. § 41-1055(B)(5)(a)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

The small businesses subject to Rule 205 are the owners or operators of captive fleet vehicles that choose to reduce or eliminate emissions from gasoline and diesel-powered fleet vehicles.

(b) The administrative and other costs required for compliance with the rulemaking (A.R.S. § 41-1055(B)(5)(b)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

Administrative Costs: Small business choosing to generate and certify MERCs must comply with the application and recordkeeping requirements of the rule.

Other Costs: Small business choosing to generate and certify MERCs will bear costs

associated with the cost to replace or retrofit captive fleet vehicles and the cost of any monitoring equipment required by the rule to ensure the continued generation of MERCs.

(c) A description of the methods that the agency may use to reduce the impact on small businesses (A.R.S. § 41-1055(B)(5)(c)).

i. Establish less stringent compliance or reporting requirements in the rule for small businesses (A.R.S. § 41-1035(1)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. This rule has the minimum reporting requirements allowed by the CAA and EPA.

ii. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses (A.R.S. § 41-1035(2)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. This rule has the minimum reporting requirements allowed by the CAA and EPA.

iii. Consolidate or simplify the rule's compliance or reporting requirements for small businesses (A.R.S. § 41-1035(3)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205. MCAQD is not aware of any way to consolidate or simplify the rule's compliance or reporting requirements, but MCAQD provides the Business Assistance Program to provide information and technical assistance for permit holders including the small business community.

iv. Establish performance standards for small businesses to replace design or operational standards in the rule (A.R.S. § 41-1035(4)).

Participation in the generation, certification, and utilization of MERCs is voluntary; however, the generation, certification, and utilization of MERCs from captive fleet vehicles must be done in compliance with the applicable provisions of Rule 205.

v. Exempt small businesses from any or all requirements of the rule (A.R.S. § 41-1035(5)).

Participation in the generation, certification, and utilization of MERCs is and will remain voluntary.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking (A.R.S. § 41-1055(B)(5)(d)).

This rulemaking will not impose any costs to private persons or consumers. The citizens and visitors to Maricopa County will benefit through the reduction of air pollutants and economic growth.

A statement of the probable effect on state revenues (A.R.S. § 41-1055(B)(6)).

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives (A.R.S. § 41-1055(B)(7)).

MCAQD is not aware of any less intrusive or costly methods to achieve the purpose of this rulemaking.

A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data (A.R.S. § 41-1055(B)(8)).

Not applicable.

7. The effective date of the rule (A.R.S. § 49-471.05(7)):

The effective date of this rulemaking was April 26, 2023.

8. Such other matters as are prescribed by statute and that are applicable to the county or to any specific rule or class of rules (A.R.S. § 49-471.05(8)):

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either;
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department is in compliance with A.R.S. §§ 49-112(A) and (B). This is a rule creation and there is no previous version of the rule to compare for stringency.

9. List of all previous notices posted to the Maricopa County EROP website addressing the rule and a concise explanatory statement, as prescribed by A.R.S. § 49-471.07(B):

(a) List of all previous notices posted to the Maricopa County EROP website addressing the rule:

Notice	Date of Posting
Briefing Notification to County Manager:	November 22, 2021
Notices of Stakeholder Workshop:	December 22, 2021 October 18, 2022
Notice of Board of Health Meeting:	January 10, 2022

Notice of Proposed Rulemaking:	December 7, 2022
Notice of Board of Health Meeting:	January 9, 2023
Notice of Public Hearing:	March 15, 2023

(b) The following discussion addresses each of the elements required for a concise explanatory statement, as prescribed by A.R.S. § 49-471.07(B):

i. A description of any change between the proposed rule, the final rule or notice of final supplemental rule.

No changes were made after the Notice of Proposed Rulemaking was published on December 7, 2022.

ii. A summary of the comments and arguments for and against the notice and the county's response to the comments and arguments.

The following discussion evaluates the arguments for and against the rule and includes responses to comments received on the rule or the preamble in the Notice of Proposed Rulemaking. MCAQD received written comments from two stakeholders. All of the comments were reviewed and evaluated by MCAQD.

Comment #1: Good Afternoon, Attached for your review are two documents regarding mobile source emission reduction credits (MERCs). The first file provides some background on the reason for creating a framework for generating MERCs, and the second presents draft MERC rule language for your consideration. We'd be happy to set up a call later this week or next to discuss the proposed language and any comments you have. Please let me know what dates/times will work for you.

Response #1: MCAQD appreciates your participation in the rulemaking process. MCAQD considered your draft rule language in creation of Rule 205.

Comment #2: 204 "Captive Fleet" The current draft indicates that all the vehicles must return to base daily. It is possible that a vehicle, in the normal course of its use, will be away from its base overnight and, in fact, having to return to base could result in unnecessary driving with unwanted emissions, fuel use and costs. Also, we recommend that the rule make clear that both on-road and off-road vehicles can be the source of MERCs and this is one place where that can be clarified. In this context, we suggest that a "Captive Fleet" be defined as "A fleet of vehicles where all the vehicles in the fleet are identifiable, the locations where they are being operated can be tracked and recorded, and their base of operation is in the nonattainment area. The captive fleet can include on-road or off-road vehicles"

Response #2: MCAQD considered your comment along with the comments from others on the definition and revised the definition as follows: "A fleet of vehicles

where all the vehicles in the fleet are identifiable, the locations where they are being operated can be tracked and recorded, their base of operation is in a nonattainment area within the jurisdiction of MCAQD, and which can serve as a permanent source of emission reductions when a vehicle is replaced or retrofitted. The captive fleet can include on-road or off-road vehicles."

Comment #3: 209 "Permanent" We are concerned that the definition is linked to the status of the NSR obligations of the MERC user. As Intel has indicated in the past, we do not feel it is practical to have the provisions of this rule, which is generating ERCs, linked to the future of the source owner that secures and surrenders ERCs to meet their obligations under nonattainment NSR. Some MERC rules, such as the one for San Diego have no stand-alone definition for "permanent", relying instead on the provisions of the rule to define the term. Perhaps a definition is not needed here. If a definition is needed, one could say that "permanent" is an emission reduction which is long-lasting and enforceable under this rule.

Response #3: MCAQD considered your comment along with the comments from others and revised the definition as follows: "A reduction in qualifying emissions used to offset emissions increases that are enduring for the remaining life of the corresponding emissions increase."

Comment #4: 212 "Quantifiable" Since we are dealing with mobile sources, we suggest that "stack test" be replaced with "emissions testing"

Response #4: MCAQD revised the rule language as suggested.

Comment #5: 302.1.c(1)(a) We suggest replacing the phrase "amount of emissions reduction" with "post-project emissions" to facilitate the quantification of emissions reductions as specified in the following section (302.1.c(1)(b)), and to be consistent with the Appendix A terminology.

Response #5: MCAQD revised the rule language as suggested.

Comment #6: 302.2 c (2) This section calls for MERC generators to track the fate of vehicles that are removed from the nonattainment area, likely through a sale. This is not practical. A MERC generator has no way to know what becomes of a vehicle which they no longer own. This requirement will greatly diminish the attractiveness of generating MERCs under this rule and should be dropped.

Response #6: The section requirement to demonstrate proper removal of a replaced baseline vehicle from the nonattainment area pertains to a single bill of sale, vehicle registration, or other transfer documentation upon initial removal of the baseline vehicle. Section 302.2.c. of this rule does not require the permitted generator to monitor subsequent transactions involving the replaced baseline vehicle. MCAQD revised the rule language as follows: "The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently

disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas."

Comment #7: 302.2.d This provision suggests that MERCs can only be generate for NOx. If someone commits to an all-electric fleet, credits for VOC and particulates could also be generated and that should not be ruled out. We suggest that "NOx" be taken out of this provision.

Response #7: MCAQD removed "NOx" from the provision and revised the rule so that qualifying emissions consist of any conventional air pollutant quantified in the periodic emissions inventory, other than lead, or any precursor of a conventional air pollutant.

Comment #8: 304.3 This provision for maintaining the surplus integrity creates uncertainty about the actual value of MERC up until the time they are used. That is a major impediment to attracting prospective MERC generators who are committing time and resources to generating the credits. They need to know the credits are real and sustainable. There are other means of insuring credits are "surplus" at the time of use. A preferable approach is to preclude the agency from counting reductions in a SIP if they are in the bank. That is how the Arizona bank rule is constructed. It says:

"R18-2-1209 Exclusion of Emission Reduction Credits from Planning: Except to the extent otherwise required by the act, with regard to credits for emissions reductions in an area for which a planning authority has responsibility, the planning authority shall:

1. Include the emissions for which the credits have been issued in the emission inventory for the area as if the reduction in those emissions has not occurred;
2. Account for the emissions for which the credits have been issued in any reasonable further progress or attainment demonstration for the area as if the reductions had not yet occurred; and
3. Refrain from relying on the reductions in any revision to the state implementation plan for the area."

We recommend that similar provisions be adopted here.

Response #8: An evaluation of MERC integrity at the time of credit use is necessary as federal requirements are revised and updated periodically. If a new applicable federal requirement is promulgated between the time a credit is certified and a credit is used, MERC surplus criteria must be evaluated to ensure

the credits remain surplus and the emission reductions are not required by a new or revised federal regulation.

Comment #9: 501.3 As written, recordkeeping will end 5 years after the MERCs are used even though demonstrating a continuation of the actions that create the credits goes for 20 years. Therefore, we suggest that it say instead: "Maintained for five (5) years after the record is created."

Response #9: MCAQD revised the rule language in 501.3 as follows: "Unless otherwise specified, maintained for five (5) years after the record is created."

Comment #10: Appendix A: We suggest that "annual utilization" be clarified to mean miles operated in the nonattainment area.

Response #10: MCAQD considered the suggestion and revised the rule language as follows: "Annual Utilization is the aggregate number of annual average miles (using historical data for the two-year period selected according to the definition of baseline emissions in this rule) of actual vehicle utilization within the applicable nonattainment area."

Comment #11: We also wish to propose the addition of a new provision making any MERC transactions already completed, subject to the provisions of this rule. This provides for consistency and assures for EPA that once this rule is SIP approved, the earlier transactions are also in the approved SIP via this rule. Here is language intended to create that arrangement:

"To the extent MERCs have been created prior to the enactment of this rule, the enforceable provisions associated with those MERCs will be enforceable under this rule and may lapse 20 years after the year the MERCs were used."

Response #11: Upon EPA approval of Rule 205, all permitted generators who completed a MERC transaction before approval of the rule will become subject to the provisions of Rule 205. Each permitted generators' air quality permit will be revised to ensure the provisions of Rule 205 are incorporated into the permit.

Comment #12: Comments 12.1 through 12.5 were submitted via email in an attached strikethrough underline version of Rule 205. [See strikethrough underline Rule 205 provided by the commenter.](#)

Response #12: Below is a response to each proposed revision in the [strikethrough underline Rule 205 provided by the commenter](#). Proposed revisions in the commenter strikethrough underline Rule 205 are numbered in the right-hand margin and a response to each numbered revision is listed below. Each response is linked to the proposed revision it corresponds to in the commenter strikethrough underline Rule 205.

12.1 The rule language referenced in the comment was removed from the rule. Additionally, in order to implement the practice of rounding down once the entire fleet emission reductions have been added up, MCAQD removed the

requirement in 302.1(c)(1)(b) requiring emission reduction calculations for each vehicle be rounded down to the nearest one tenth (1/10) of a ton.

12.2 MCAQD appreciates your support for the rule revision.

12.3 The section requirement to demonstrate proper removal of a replaced baseline vehicle from the nonattainment area pertains to a single bill of sale, vehicle registration, or other transfer documentation upon initial removal of the baseline vehicle. Section 302.2.c of this rule does not require the permitted generator to monitor subsequent transactions involving the replaced baseline vehicle. Additionally, MCAQD removed the requirement that the replaced baseline vehicle not be registered in any other nonattainment area in the United States. MCAQD revised the rule language as follows: "The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas."

12.4 As stated in 40 CFR Part 85, Subpart F for the purposes of the subpart, the term "you" generally refers to the clean alternative fuel conversion manufacturer, and subsequently the exemption from tampering prohibition in Clean Air Act section 203(a) is generally applicable to the conversion manufacturer. The intent of 302.2e and 504.4 is for the permitted generator to ensure compliant clean alternative fuel conversions were performed by the converter and to maintain record of the compliant conversion.

12.5 MCAQD appreciates your support for the rule revision.

Comment #13: Section 205: The definition of "Captive Fleet" removed the requirement for GPS tracking from the prior version. WM recommends that the need for GPS tracking also be removed from Sections 503 and 504. Also, it is imperative that the definition of "Captive Fleet" be clarified to include only those vehicles in a fleet that participate in the MERC program. The monitoring and recordkeeping requirements for larger fleets with vehicles NOT in the program would be otherwise excessive. Regulating all trucks in a fleet would be a deterrent for most firms to participate in the program.

Response #13: The GPS requirement was removed from the captive fleet definition in section 205 to allow owners and operators of captive fleets who do not already have GPS systems installed to still participate in the program. The

monitoring and recordkeeping requirements of sections 503 and 504 retain the GPS provisions. Emission reductions generated in the applicable nonattainment area monitored and recorded by GPS demonstrate compliance with the federal offset integrity criteria of being real and provide verifiable evidence of emission reductions occurring within the nonattainment area. The monitoring and recordkeeping requirements serve to provide the necessary data and information to demonstrate vehicles are being used in the same manner as represented in the ERC application and provide validity of the certified MERC value. Additionally, MCAQD revised applicable rule language throughout the rule so that monitoring and recordkeeping requirements apply only to fleet vehicles involved in the generation of MERCs.

Comment #14: Section 212: The definition of “Permanent” is excessive in that the owner or operator of the captive fleet has no way of quantifying “the remaining life of the emission increase,” as that process is solely dependent on end-user of the MERC. This uncertainty is deterrent for the fleet owner/operator. WM proposed language that reflects a set time period or references a purchase contract.

Response #14: The definition is in accordance with the Clean Air Act requirement that emission reductions assure the stationary source's increased emissions are offset by an equal or greater reduction. Additionally, a set time period for subsequent vehicle replacement is found in section 302.2.d., which states: " The replacement or retrofitted vehicles that were used to acquire certified credits shall only be subsequently replaced with vehicles certified to an emission limit equivalent to or less than the replacement or retrofitted vehicle used to acquire certified credits and shall comply with the most recent applicable federal emission standard. This replacement requirement shall continue for 20 years from the issuance date of the certified credits."

Comment #15: Section 214: The definition of “Qualifying Emissions” refers to air pollutant quantified in the periodic emissions inventory. Mobile vehicle emissions are not quantified in the generator emissions inventories. Please clarify the intent here.

Response #15: Captive fleet vehicle emissions are not quantified in the permitted generator's emissions inventories submitted to MCAQD. Mobile source vehicle emissions are quantified by the Maricopa Association of Governments using modeling software such as EPA MOVES. The purpose of quantification of emissions in the periodic emissions inventory is to ensure they meet the federal offset integrity criteria of surplus.

Comment #16: Section 301.1a: The timing of the Permit or Permit Revision application should occur after or simultaneous to the MERC Generation application in order to determine the permitted ERC amount, scope of the permit requirements, also a Permit or Permit Revision will not be required if the MERC application is denied.

Response #16: MCAQD revised the rule language to address this issue. The language reads as follows: "The permitted generator may apply for certified credits for reductions in qualifying emissions for a vehicle replacement or retrofit that will comply with the applicable requirements in § 302 (MERC Generation) of this rule and by filing either of the following with the Control Officer in accordance with Rule 210 (Title V Permit Provisions) or Rule 220 (Non-Title V Permit Provisions) of these rules:"

Comment #17: 301.2.b: This Section refers to public notification for the MERC Generation application. However, Rule 220, Section 407 references "sources with emissions of a regulated air pollutant that exceeds public notice thresholds as defined in Rule 100". Mobile sources are not included in threshold determinations. As an additional comment, generally we believe that motor vehicles operations are not typically subject to public notice requirements.

Response #17: Section 301.2.b states that public participation is to be provided for on the Control Officer's proposed determination to issue certified credits and a permit or permit revision per the provisions of section 407 of Rule 220. It furthermore states that the public participation requirement applies to all proposed actions to issue certified credits. The public notice threshold in Section 407 of Rule 220 does not apply to applications for certification of MERCs.

Comment #18: Section 302.1.b: The rounding to the tenths should be performed at the project level and not for each vehicle. WM proposes adding "Final calculated emission for the project shall be...".

Response #18: MCAQD considered your comment and removed the language in Sections 203 Baseline Emissions and 302.1(c)(1)(b) requiring emission reduction calculations for each vehicle be rounded down to the nearest one tenth (1/10) of a ton.

Comment #19: Section 302.1.d. WM proposes that alternative calculation methodologies be presented at the time of application. This would facilitate simultaneous review by the Control Officer and the Administrator. In addition, once calculations methodologies are accepted by the Administrator for one MERC generator, subsequent reviews should be limited to that of the Control Officer.

Response #19: The rule language does not preclude an alternative calculation methodology from being presented at the time of ERC application. Additionally, MCAQD confirmed with the EPA that once an alternative calculation methodology is approved by the Administrator it will no longer require subsequent approval by the Administrator for future use.

Comment #20: Section 302.2.a: WM proposes adding "or equivalent" to the maintenance requirement such that it reads "The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer's or equivalent written instructions or maintenance program.

WM has worked with Cummins over 10 years to improve their CNG engine, and some maintenance is based upon our experience.

Response #20: MCAQD considered your comment and revised the rule language as follows: "The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer's written instructions or the maintenance schedule provided by the manufacturer's authorized service provider."

Comment #21: Section 302.2.c: This section includes the requirement for monitoring and documenting that a Replaced Baseline Vehicle is removed from Maricopa County. WM recognizes the need to confirm that the Replaced Baseline Vehicle is permanently removed from the MERC generator's fleet, however, the requirement to track that vehicle in perpetuity is excessive, burdensome, and a deterrent to an ERC generator to participate. Furthermore, the tracking a Replaced Baseline Vehicle outside of Maricopa County may not be possible due to third parties in other counties or states may not provide their registrations. Furthermore, the requirement that the Replaced Baseline Vehicle not be registered in "any other non-attainment area in the United States" may be out of scope for this County rule. WM proposes that the MERC generator provide one-time documentation that the vehicle was removed from the fleet and an annual statement that Replaced Baseline Vehicles has not returned to the Captive Fleet within Maricopa County.

Response #21: The section requirement to demonstrate proper removal of a replaced baseline vehicle from the nonattainment area pertains to a single bill of sale, vehicle registration, or other transfer documentation upon initial removal of the baseline vehicle. Section 302.2.c of this rule does not require the permitted generator to monitor subsequent transactions involving the replaced baseline vehicle. Additionally, MCAQD removed the requirement that the replaced baseline vehicle not be registered in any other nonattainment area in the United States. MCAQD revised the rule language as follows: "The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas."

Comment #22: Section 302.d: This section addresses Vehicle Replacement. WM proposes this requirement period extend to either the 20 year period or when the ERCs are released by the source using the credits, in lieu of the 20 year period. The 20 year period is daunting and a cause of uncertainty for volunteers in the MERC program. WM also proposes the removal of language requiring excessive tracking of Replace Baseline Vehicles as mentioned in Comment No. 9 above.

Response #22: The 20 year vehicle replacement requirement serves to satisfy the federal offset integrity criteria of permanence and enforceability for the emission reductions. The requirement ensures the emission reductions are long lasting and enforceable under the rule.

Additionally, the requirement to demonstrate proper removal of a replaced baseline vehicle from the nonattainment area pertains to a single bill of sale, vehicle registration, or other transfer documentation upon initial removal of the baseline vehicle. The rule does not require the permitted generator to monitor subsequent transactions involving the replaced baseline vehicle. MCAQD revised this referenced rule language as follows: "The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas."

Comment #23: Section 401.1. Please confirm that the Calculation Review fees are only for the MERC Generator Application and not required annually.

Response #23: The Preliminary ERC Calculations Review fee is not a recurring fee. It is a one-time fee to cover costs to provide preliminary feedback on proposed ERCs prior to the submittal of an ERC application for certification.

Comment #24: Section 501.2: The definition of "without delay" for the requirement to produce documents should be clarified; for consistency with the current permit text for a similar, such as "Upon verbal or written request by the Control Officer, the log or the records and supporting documentation shall be provided as soon as possible but no later than 48 hours after the request,".

Response #24: MCAQD revised the rule language as suggested.

Comment #25: Section 503,1: WM requests that the "GPS tracking" requirement. GPS tracking will require technology upgrades, enormous data handling systems, and massive time commitment to track and record data. The same information can be obtained using vehicle odometers and verified with hour meters.

Response #25: The monitoring and recordkeeping requirements of sections 503 and 504 retain the GPS provisions so that vehicles may be tracked and the continued generation of emission reductions in the applicable nonattainment area can be demonstrated. Emission reductions monitored and recorded by GPS demonstrate compliance with the federal offset integrity criteria of being real. The monitoring and recordkeeping requirements serve to provide the necessary data and information to demonstrate all vehicles are being used in the same

manner as represented in the ERC application and provide validity of the certified MERC value.

Comment #26: Section 503.2: – Similarly to Comment 14, WM requests removing the “GPS tracking” requirement. A GPS tracking system with an overlay map and mileage calculator would require a considerable investment and would be time consuming to operate and analyze data. WM’s ERC fleets are dispatched from the non-attainment area and service within the non-attainment area. Only < 1% of the VMT are outside the Non-attainment Area. GPS tracking for our fleet isn’t needed. For the < 1% VMT we manually compare the truck route to the EPA Non-attainment Area Map then manually calculate the mileage. Requiring GPS for this mileage determination is excessive and will limit participants in the program.

Response #26: The monitoring and recordkeeping requirements of sections 503 and 504 retain the GPS provisions so that vehicles may be and the continued generation of emission reductions in the applicable nonattainment area can be demonstrated. Emission reductions monitored and recorded by GPS demonstrate compliance with the federal offset integrity criteria of being real. The monitoring and recordkeeping requirements serve to provide the necessary data and information to demonstrate all vehicles are being used in the same manner as represented in the ERC application and provide validity of the certified MERC value.

Comment #27: Section 504.2: WMA requests that the words “used for ERC’s” shall be added after “captive fleet”. Recordkeeping for vehicles not included in the MERC program would be unnecessarily burdensome.

Response #27: MCAQD revised applicable rule language throughout the rule as suggested so that monitoring and recordkeeping requirements apply only to fleet vehicles involved in the generation of MERCs.

Comment #28: Section 504.5: WM proposes that either this section be removed in its entirety, or the word “not” in “not used to generate certified credits” be removed. It is unnecessarily burdensome to monitor and report changes to the fleet that do NOT involve MERC generating vehicles.

Response #28: MCAQD removed the referenced rule language.

Comment #29: Section 504.6: WM proposes changing the annual report deadline to within 60 days after December 31 of the calendar year as the amount of confirmation data to be reduced and presented is massive.

Response #29: MCAQD revised the rule language as suggested.

Comment #30: Appendix A, Emission Calculation Methodology: WM proposes the clarification that this methodology is used for the initial MERC Generator Application ONLY. Annual Emission reporting should use actual Vehicles Miles

Travelled and the difference between the Baseline and Post-Project Pollutant Emission Factors. This will get a more accurate reduction as the usage of the replacement vehicle will vary over the life of the ERC.

Response #30: The calculation methodology in Appendix A is used to determine the emission reductions from each vehicle replacement or retrofit. The methodology involves annual utilization or vehicle miles travelled, baseline pollutant emission factor, and post-project emission factor. Once the emission reductions are calculated and certified they cannot be recalculated using different emission factors. The only variable that will change regarding annual emission reporting is the vehicles mile travelled and that variable should not change substantially in order for the certified MERCs to remain valid.

Comment #31: Appendix A, Baseline Vehicle Engine Model Year. Section D of Appendix A recognizes, in its criteria for High Pollution Area Incentive, that there is an expected lifespan for a baseline vehicle. That lifespan is 7 years for a baseline gasoline vehicle and 11 years for a diesel baseline vehicle. The proposed methodology does not incentivize early replacements. The proposed methodology uses an emission reduction based on the difference between “a replacement vehicle and the replacement vehicle engine model year that corresponds to the model year of the replacement vehicle.” This is based on the assumption that the Baseline Replaced Vehicle was due for replacement, and instead of replacing it with a similar vehicle it was replaced with a lower emission vehicle. Thus, the emission reduction is between the replacement vehicle that would have been purchased and the lower emission vehicle that was actually purchased. This assumption is a valid ONLY IF the replacement happens beyond the expected lifespan of the replaced vehicle. For a diesel vehicle, for example, that would happen if the vehicle was replaced at the 12 year mark instead of the 11 year mark. This methodology does not incentivize potential MERC generators to replace vehicles within the expected lifespan, for example, the 10 year mark for a diesel vehicle. WM proposes an adjustment to encourage replacements by allowing the same incentive for early replacements in the Non-Attainment area.

Response #31: Section D of Appendix A is intended to provide incentive for early replacement of baseline vehicles, prior to exceedance of the useful lifespan. As stated, "To be eligible, a gasoline baseline vehicle engine must be no more than 7 years older than the replaced or retrofitted vehicle engine or a diesel baseline vehicle engine must be no more than 11 years older than the replaced or retrofitted vehicle engine." Therefore, eligibility for the incentive is applicable to gasoline baseline vehicles that are 7 years old or less, and diesel baseline vehicles that are 11 years old or less. As the eligibility requirement is applicable to a vehicle anywhere between 0 to 11 years old for a diesel baseline vehicle, a 10-year-old diesel baseline vehicle would be eligible to this provision of the incentive, provided compliance with all other applicable requirements of the rule. Additionally, the intent of the incentive is to apply to only high pollution areas as described within Section D using EPA's EJScreen, as opposed to entire nonattainment areas.

[Comment #32](#): Comment 32.1 was submitted via email in an attached strikethrough underline version of Rule 205. [See strikethrough underline Rule 205 provided by the commenter](#).

Response #32: Below is a response to the proposed revision in the [strikethrough underline Rule 205 provided by the commenter](#). The proposed revision in the commenter strikethrough underline Rule 205 is numbered in the right-hand margin and a response to the numbered revision is listed below. The response is linked to the proposed revision it corresponds to in the commenter strikethrough underline Rule 205.

32.1 MCAQD considered your comment and revised Section 302.2c as follows: “The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas.”

Exact Wording of the Rule

MARICOPA COUNTY

AIR POLLUTION CONTROL REGULATIONS

REGULATION II – PERMITS AND FEES

RULE 205 (EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION REDUCTION CREDITS)

INDEX

SECTION 100 – GENERAL

101 PURPOSE

102 APPLICABILITY

SECTION 200 – DEFINITIONS

201 ACCOUNT HOLDER

202 ARIZONA EMISSIONS BANK

203 BASELINE EMISSIONS

- 204 BASELINE VEHICLE
- 205 CAPTIVE FLEET
- 206 CERTIFIED EMISSION REDUCTION CREDIT
- 207 EMISSION REDUCTION CREDIT (ERC) or CREDIT
- 208 ENFORCEABLE
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC)
- 210 OFFSETS
- 211 PERIODIC EMISSIONS INVENTORY
- 212 PERMANENT
- 213 PERMITTED GENERATOR
- 214 QUALIFYING EMISSIONS
- 215 QUANTIFIABLE
- 216 REAL
- 217 REPLACEMENT VEHICLE
- 218 RETROFIT VEHICLE
- 219 SURPLUS

SECTION 300 – STANDARDS

- 301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION REDUCTIONS BY A PERMITTED GENERATOR
- 302 MERC GENERATION
- 303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK
- 304 USE OF THE CERTIFIED CREDITS

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- 401 FEES

SECTION 500 – MONITORING AND RECORDS

- 501 RECORDKEEPING AND RECORDS RETENTION
- 502 INSPECTIONS
- 503 MERC GENERATION MONITORING
- 504 MERC GENERATION RECORDS

APPENDIX TO RULE 205

APPENDIX A: CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH VEHICLE REPLACEMENT OR RETROFIT

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES

**RULE 205 (EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE
SOURCE EMISSION REDUCTION CREDITS)**

SECTION 100 – GENERAL

101 PURPOSE: To facilitate the creation and trading of mobile source emission reduction credits (MERCs) for use as offsets by a stationary source under Rule 240 (Federal Major New Source Review (NSR)) of these rules by providing a process for:

101.1 Generating mobile source emission reduction credits for reductions achieved by permitted generators.

101.2 Certifying credits as meeting offset requirements in advance of the certified credits' use for that purpose.

101.3 Registering certified credits generated under this rule in the Arizona Emissions Bank.

101.4 Using certified credits generated under this rule registered in the Arizona Emissions Bank.

101.5 Using certified credits generated under this rule not registered in the Arizona Emissions Bank.

102 APPLICABILITY: The provisions of this rule apply to the following persons and entities:

102.1 The owner or operator of a captive fleet of vehicles who holds or intends to obtain a Maricopa County Air Quality Department Stationary Source Permit and has achieved or will achieve reductions in qualifying emissions in compliance with this rule.

102.2 The owner or operator of a permitted stationary source that intends to use certified credits as offsets.

SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.

201 ACCOUNT HOLDER: Any person or entity who has opened an account with the Arizona Emissions Bank.

202 ARIZONA EMISSIONS BANK: The system created by the Arizona Department of Environmental Quality (ADEQ) to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.

203 BASELINE EMISSIONS: The average rate at which a baseline vehicle would have actually emitted the pollutant in absence of generating emission reductions during the two preceding calendar years, or two calendar years more representative of normal

emissions within the 5-year period immediately before the reduction in qualifying emissions.

- 204 BASELINE VEHICLE:** Captive fleet vehicle that has been replaced or retrofitted for a reduction in qualifying emissions.
- 205 CAPTIVE FLEET:** A fleet of vehicles where all the vehicles in the fleet are identifiable, the locations where they are being operated can be tracked and recorded, their base of operation is in a nonattainment area within the jurisdiction of MCAQD, and which can serve as a permanent source of emission reductions when a vehicle is replaced or retrofitted. The captive fleet can include on-road or off-road vehicles.
- 206 CERTIFIED EMISSION REDUCTION CREDIT:** An emission reduction credit that has met the criteria in this rule for certification and has been issued by the Maricopa County Air Quality Department (MCAQD). Certified credits do not have property rights associated with them.
- 207 EMISSION REDUCTION CREDIT (ERC):** A reduction in qualifying emissions, expressed in tons per year as rounded down to the nearest one tenth (1/10) of a ton, for which a permitted generator has submitted an application pursuant to this rule.
- 208 ENFORCEABLE:** Specific measures for assessing compliance with an emissions limitation, control, or other requirement established in a permit or in this rule in a manner that allows compliance to be readily determined by, but not limited to, an inspection of records and reports.
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC):** An ERC generated from a captive fleet vehicle.
- 210 OFFSETS:** Reductions in emissions required under Rule 240 (Federal Major New Source Review (NSR)) of these rules.
- 211 PERIODIC EMISSIONS INVENTORY:** In accordance with section 172(c)(3) of the Clean Air Act, the base year emissions inventory within the Maricopa County nonattainment area for the relevant conventional air pollutant or the most recent periodic update.
- 212 PERMANENT:** A reduction in qualifying emissions used to offset emissions increases that are enduring for the remaining life of the corresponding emissions increase.
- 213 PERMITTED GENERATOR:** The owner or operator of a captive fleet of vehicles that has or intends to obtain a Maricopa County Air Quality Permit that has made or proposes to make reductions in qualifying emissions.
- 214 QUALIFYING EMISSIONS:** Emissions of any conventional air pollutant quantified in the periodic emissions inventory, other than elemental lead, or any precursor of a conventional air pollutant from any activity when generated within the Maricopa County nonattainment area associated with the conventional air pollutant.
- 215 QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and addressed in terms of character. Quantification may be based on emission factors, vehicle emissions testing, monitored values, operating rates, and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.

- 216 REAL:** A reduction in actual emissions released to the air resulting from a physical change or change to the method of operations by a permitted generator.
- 217 REPLACEMENT VEHICLE:** Vehicle used to generate certified credits that is certified to an emission limit less than the baseline vehicle it replaces and is in compliance with the most recent applicable federal emission standard at the time of replacement.
- 218 RETROFIT VEHICLE:** Captive fleet vehicle that has or will have any alteration, including components, design, and instructions to perform this alteration, of the vehicle or engine, its fueling system, or the integration of these systems, that allows the vehicle or engine to operate on a fuel or power source different from the fuel or power source for which the vehicle or engine was originally certified; and that is designed, constructed, and applied in compliance with the requirements in 40 CFR 85 and 86.
- 219 SURPLUS:** A reduction in qualifying emissions below the emission limitations and standards used to comply with any otherwise federally applicable requirements and is not relied upon to meet any requirements in the State Implementation Plan (SIP).

SECTION 300 – STANDARDS

301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION REDUCTIONS BY A PERMITTED GENERATOR:

301.1 Application:

- a.** The permitted generator may apply for certified credits for reductions in qualifying emissions for a vehicle replacement or retrofit that will comply with the applicable requirements in § 302 (MERC Generation) of this rule and by filing either of the following with the Control Officer in accordance with Rule 210 (Title V Permit Provisions) or Rule 220 (Non-Title V Permit Provisions) of these rules:
 - (1)** An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable; or
 - (2)** An application for a permit seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable.
- b.** An application for certified credits shall be filed with the Control Officer on the form prescribed by the MCAQD and shall include:
 - (1)** Information on the identity, type, ownership, and location of the permitted generator;
 - (2)** Inventory of the captive fleet, as specified in § 504.2, for which a replaced or retrofitted vehicle resulted or will result in reductions in qualifying emissions;
 - (3)** A description of the vehicle replacement or retrofits that have resulted or will result in surplus reductions in qualifying emissions, as well as a description of how the reductions in qualifying emissions will be permanent;

- (4) Information on the methodology for quantifying the surplus reductions in qualifying emissions for each pollutant subject to the application, including emissions calculations;
- (5) Information on the proper removal or disposal of baseline vehicles if the reductions in qualifying emissions were accomplished through vehicle replacement;
- (6) Information on the conversion system used if the reductions in qualifying emissions will be accomplished through vehicle retrofit;
- (7) Other information or records necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, federally enforceable, and real;
- (8) The actual date or anticipated date of the reductions in qualifying emissions, as applicable; and
- (9) A signed statement by a responsible official, as defined in Rule 100 (General Provisions and Definitions) of these rules, verifying the truthfulness and accuracy of all information provided in the application.

301.2 Action on Application: The Control Officer shall review the application for certified credits and:

- a. Evaluate whether the requested MERCs will be real, quantifiable, federally enforceable, permanent, and surplus and determine whether the MERCs meet the requirements of § 302 for generating MERCs.
- b. Provide public participation on the Control Officer's proposed determination to issue certified credits and a permit or permit revision per the provisions in Section 407 of Rule 220 of these rules. This requirement applies to all proposed actions to issue certified credits according to this rule. The proposed determination shall include the proposed permit or permit revision and the Control Officer's underlying analysis for proposing to certify the MERCs.
- c. If the Control Officer determines the requested credits meet the requirements of this rule and should be certified then the Control Officer shall:
 - (1) Issue either a permit or permit revision that incorporates the requirements of § 302.2, and any other necessary requirements to make the reductions in qualifying emissions permanent and enforceable.
 - (2) Issue one certified credit for each ton, as rounded down to the nearest one tenth (1/10) of a ton, per year of reduction that qualifies as permanent, quantifiable, surplus, federally enforceable, and real.
 - (3) Provide the applicant with a certificate representing the number of certified credits issued. The certificate shall specify that the credits were certified under this rule and shall specify whether the reductions in qualifying emissions have been implemented or the date by which the reductions are required to be implemented.

- d. If the Control Officer determines that none of the requested MERCs should be certified, then the applicant will be notified, and no credits will be issued and no permit or permit revision will be issued.

301.3 Registration of Certified Credits in the Arizona Emissions Bank: Certified credits may be registered in the Arizona Emissions Bank but registration is not required. See § 303 (Registration of Certified Credits in the Arizona Emissions Bank) of this rule for procedures regarding registration of certified credits in the Arizona Emissions Bank.

302 MERC GENERATION: A permitted generator that plans to replace or retrofit all or part of their captive fleet to generate a reduction in qualifying emissions:

302.1 May apply to certify MERCs by meeting the following requirements:

- a. **Location:** Demonstrate that the captive fleet of vehicles used to generate credits shall be based and operated within a nonattainment area within the jurisdiction of the MCAQD. Certified credits may only be granted for those reductions generated while operating in the nonattainment area. A baseline vehicles operation inside and outside the nonattainment area must be quantifiable.
- b. **Quantification of Baseline Emissions:** The permitted generator shall quantify baseline emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.
- c. **Quantification of Emission Reductions:**
 - (1) The permitted generator shall quantify the post project emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.
 - (2) Calculations shall only include surplus reductions and shall not include emission reductions created or used under any other emissions trading program, emission reductions used to satisfy the State Implementation Plan including transportation conformity requirements, or any emissions reductions pursuant to a federal consent decree, or state and local settlements.
- d. **Alternative Calculation Methodology:** A permitted generator may use an alternative calculation methodology to quantify emission reductions upon approval from the Control Officer and the Administrator. All alternative calculation methodologies shall be submitted to the Administrator after completion of the public participation process in § 301.2, and shall include any public comments received and the Control Officer's response to the public comments. The Administrator shall be provided 60 days to review the submittal. Written approval from the Administrator is required prior to using an alternative calculation methodology.

302.2 Shall comply with all of the following operating, maintenance, monitoring, removal/disposal, replacement, and recordkeeping requirements:

- a. Operation and Maintenance:** The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer's written instructions or the maintenance schedule provided by the manufacturer's authorized service provider.
- b. Monitoring of Captive Fleet:** The permitted generator shall monitor the replacement or retrofitted vehicles in the captive fleet used to generate credits as specified in § 503 to ensure the replaced or retrofitted vehicles continue to generate permanent emission reductions as represented in the application in § 301.1(b)(3).
- c. Removal/Disposal of Replaced Baseline Vehicles:** The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas.
- d. Subsequent Vehicle Replacements:** The replacement or retrofitted vehicles that were used to acquire certified credits shall only be subsequently replaced with vehicles certified to an emission limit equivalent to or less than the replacement or retrofitted vehicle used to acquire certified credits and shall comply with the most recent applicable federal emission standard. This replacement requirement shall continue for 20 years from the issuance date of the certified credits. The permitted generator shall further ensure that any replaced baseline vehicle is not operated in any other captive fleet owned or operated by the permitted generator in the applicable Maricopa County nonattainment area.
- e. Vehicle Retrofit:** The permitted generator shall ensure the retrofit vehicle used for generating certified credits satisfies the exemption from tampering prohibition of clean alternative fuel conversions through compliance with 40 CFR 85, Subpart F, and a valid corresponding certificate of conformity or notification submission to the EPA.
- f. Timing:** The permitted generator shall demonstrate vehicle replacements or retrofits and removal/disposal of baseline vehicles occurred prior to the application for certified credits or shall meet an enforceable timeline established in the permit or permit revision required by § 301.2(c)(1) that specifies how and by when this demonstration will be met.

g. Monitoring and Recordkeeping: Upon issuance of a permit or permit revision under this rule, a permitted generator is responsible for monitoring and recordkeeping as required in:

- (1) Section 501 (Recordkeeping and Records Retention);
- (2) Section 502 (Inspections);
- (3) Section 503 (MERC Generation Monitoring); and
- (4) Section 504 (MERC Generation Records).

303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK: The permitted generator may register certified credits with the Arizona Emissions Bank. To register a certified credit:

303.1 Owner or Operator: The permitted generator shall:

- a. Indicate on the MCAQD emission reduction credit application their plan to register the certified credits in the Arizona Emission Bank; and
- b. Open an Arizona Emissions Bank account per A.A.C. R18-2-1206.A.

303.2 Control Officer: The Control Officer shall notify the ADEQ of the number of certified credits issued to the permitted generator on a form prescribed by the ADEQ.

304 USE OF THE CERTIFIED CREDITS:

304.1 Certified Credits Registered in the Arizona Emissions Bank:

- a. An account holder who intends to use the certified credits under this rule held in its account as offsets shall file an application to use the certified credits on the form prescribed by the ADEQ.
- b. On approval of the application by the ADEQ, the Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the user of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision

number. This will provide documentation on the availability of the remaining certified credits.

- c. The Control Officer shall provide notice to the ADEQ of the final action on the stationary source's application for a permit or for a permit revision and of any changes in the number of certified credits.
- d. Reductions in qualifying emissions reflected in the number of certified credits shall be implemented before actual operation of the new stationary source or modification begins.

304.2 Certified Credits Not Registered in the Arizona Emissions Bank:

- a. The owner or operator of a stationary source who intends to use certified credits that are not registered in the Arizona Emissions Bank as offsets shall:
 - (1) Notify the MCAQD of the intention to use the certified credits as an offset to meet the requirements of Rule 240 (Federal Major New Source Review) of these rules; and
 - (2) Submit the certificate of issued certified credits to the MCAQD in conjunction with a stationary source permit application or permit revision.
- b. The Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the owner or operator of the number of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.

304.3 First In, First Out Accounting: The owner or operator of the stationary source using certified credits must use the oldest credits in their possession first.

304.4 Review of MERC Integrity: At the time of use of certified credits under this rule, the Control Officer shall review the amount of previously issued certified credits remain surplus under this rule and shall revise the amount if necessary to

maintain surplus integrity. Any certified credits proposed to be used where the reductions in qualifying emissions were not implemented at the time of MERC application shall only be used if the reductions will be implemented before the new stationary source or modification using the credits begins operation of the new source or modification.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 FEES

401.1 A fee may be charged for the following:

- a. Preliminary ERC Calculations Review:** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When review of ERC calculations is complete the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing ERC calculations and the balance due.
- b. ERC Application Processing (for Certification):**
 - (1)** The minimum fee due shall be an application fee of \$200.
 - (2)** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When application processing is completed and final costs are greater than the combined fees under §§ 401.1a and b(1) of this rule, the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of evaluating and acting upon the application, minus the fee submitted under § 401.1a of this rule, and the balance due.
- c. Permit:** Permit fees applicable to either §§ 301.1a or b of this rule, as set forth in Rule 280 (Fees) of these rules.

401.2 Fee adjustments: The Control Officer shall adjust the hourly rate in §§ 401.1a & b every January 1, to the nearest 10 cents per hour, beginning on January 1, 2018. The Control Officer will multiply \$149.20 by the Consumer Price Index (CPI) for the most recent year and then divide by the CPI for the year 2016.

SECTION 500 – MONITORING AND RECORDS

501 RECORDKEEPING AND RECORDS RETENTION: Records and data required by this section shall be:

- 501.1** Kept on site at all times by the permitted generator in a consistent and complete manner, in either electronic or paper format.
- 501.2** Upon verbal or written request by the Control Officer, the log or the records and supporting documentation shall be provided as soon as possible but no later than 48 hours after the request.
- 501.3** Unless otherwise specified, maintained for five (5) years after the record is created.

- 502 INSPECTIONS:** A permitted generator shall provide the Control Officer with access to the premises for the purpose of conducting an inspection to verify compliance with this rule. An inspection may include, but is not limited to, a review of records and reports.
- 503 MERC GENERATION MONITORING:** The permitted generator shall monitor parameters used to quantify certified credits beginning no later than issuance of the certified credits. All monitoring equipment shall be operated and maintained in accordance with the manufacturer's written instructions. At a minimum, the permitted generator shall monitor the following for each replaced or retrofitted vehicle used for obtaining certified credits:
- 503.1** Vehicle miles traveled (VMT) as determined by GPS tracking;
 - 503.2** Percent of VMT within the nonattainment area as determined by GPS tracking; and
 - 503.3** Any other parameter used to make the certified credits quantifiable, such as idling speed, idling emissions, or fuel use rate.
- 504 MERC GENERATION RECORDS:** A permitted generator shall maintain the following records of each replacement or retrofitted vehicle in its captive fleet:
- 504.1 Certified Credit Records:** All records supporting the application for which certified credits were granted, including but not limited to: documentation of when a vehicle was retrofitted or replaced, documentation that the baseline vehicle or baseline vehicle engine was disposed of or removed from the nonattainment area, VMT for each baseline vehicle used to generate credits, and percent of VMT within the nonattainment area for each baseline vehicle used to generate credits. The records shall be maintained for at least 5 years following the use of the certified credits, regardless of any defenses under any federal or state statute of limitations.
 - 504.2 Replacement or Retrofitted Vehicle Inventory Records:** A detailed inventory of each replacement or retrofitted vehicle used to generate certified credits that shall include all of the following and shall be reviewed and updated on a monthly basis:
 - a.** For each fleet vehicle provide:
 - (1)** The vehicle manufacturer.
 - (2)** The model number.
 - (3)** The model year.
 - (4)** A description of the vehicle including serial number.
 - (5)** Fuel type.
 - b.** The date each vehicle was:
 - (1)** Added to the inventory.
 - (2)** Removed from the inventory.
 - c.** For each vehicle added to the inventory:

- (1) Identify the vehicle removed in its place.
- (2) The permitted generator must document that the replacement vehicle is certified to equivalent or lower standards than the vehicle or engine used to generate certified credits.

504.3 Operational Records: The following operational records shall be maintained on a monthly basis upon issuance of the certified credits:

- a. **Monthly:** For each replacement or retrofitted vehicle used to generate certified credits, the permitted generator shall record a description of all maintenance and repairs, including the results and any corrective actions performed.
- b. **Monthly:** For each replacement or retrofitted vehicle in the captive fleet, maintain monthly records of:
 - (1) Calendar month VMT.
 - (2) To date for the calendar year, the percent of VMT within the applicable nonattainment area.
 - (3) Monthly summary of any other monitoring required by Section 503 of this rule.

504.4 Vehicle Retrofit Records: The permitted generator shall maintain record for each retrofitted vehicle that was used to generate certified credits that demonstrates exemption from tampering prohibition of clean alternative fuel conversions by compliance with 40 CFR 85, Subpart F. This includes the applicable valid certificate of conformity or notification submission to the EPA.

504.5 Annual Report: Upon issuance of certified credits, and within 60 days after December 31 of each calendar year, the permitted generator shall submit an annual report to the Control Officer summarizing the captive fleet's operation and compliance with § 302.2(b) for the previous calendar year and provide: attest that any replaced baseline vehicle is not a part of any other captive fleet owned or operated by the permitted generator in Maricopa County and how this was verified, the current captive fleet inventory as specified by § 504.2, total annual VMT for each vehicle used to generate certified credits, and percentage of VMT each vehicle used to generate certified credits accrued in the applicable nonattainment area that calendar year.

APPENDIX A

CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH VEHICLE REPLACEMENT OR RETROFIT

- A.** Baseline Emissions = Annual Utilization (miles/year) × Baseline Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant emitted.
 2. Annual Utilization is the aggregate number of annual average miles (using historical data for the two-year period selected according to the definition of baseline emissions in this rule) of actual vehicle utilization within the applicable nonattainment area.
 3. Baseline Pollutant Emissions Factor is determined using the baseline vehicle fuel type, baseline vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the United States Environmental Protection Agency's (EPA) Motor Vehicle Emission Simulator (MOVES) software. Baseline vehicle engine model year corresponds to the calendar year in which the emission reductions are generated by replacing or retrofitting the baseline vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- B.** Post Project Emissions = Annual Utilization (miles/year) × Post-Project Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant.
 2. Annual Utilization is the value from A.2.
 3. Post Project Pollutant Emissions Factor is determined using the replacement or retrofit vehicle fuel type, replacement or retrofit vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the EPA's MOVES software. For a retrofitted vehicle, the vehicle engine model year corresponds to the year the emission reductions are generated by retrofitting the baseline vehicle. For a replacement vehicle, the replacement vehicle engine model year corresponds to the model year of the replacement vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- C.** The amount of eligible emission reduction credits for each vehicle is determined by subtracting Post Project Emissions from Baseline Emissions.
- D. High Pollution Area Incentive:** The permitted generator may be eligible to use an earlier baseline vehicle engine model year to determine the amount of eligible emission reduction credits determined in Section C of this Appendix if the permitted generator can demonstrate the annual utilization of the vehicle occurs at least 75% of VMT within areas of high pollution as identified through EPA's EJScreen (Environmental Justice Screening and Mapping Tool) Environmental Justice Indexes. An area of high pollution shall be considered any area in the 90th national percentile or greater for the credited pollutant or applicable precursors. To be eligible, a gasoline baseline vehicle engine must be no more

than 7 years older than the replaced or retrofitted vehicle engine or a diesel baseline vehicle engine must be no more than 11 years older than the replaced or retrofitted vehicle engine. Once determined to be eligible, vehicles may use a baseline vehicle engine model year that corresponds to the model year of the baseline vehicle.

Subject: FW: Proposed MERC Rule Language
Attachments: MERC Background.docx; Proposed Working Draft_MERC_D.docx

From: Cooper, Sarah <sarah.cooper@intel.com>
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Subject: Proposed MERC Rule Language

Good Afternoon,

Comment #1 - [Return to response #1](#)

Attached for your review are two documents regarding mobile source emission reduction credits (MERCs). The first file provides some background on the reason for creating a framework for generating MERCs, and the second presents draft MERC rule language for your consideration. We'd be happy to set up a call later this week or next to discuss the proposed language and any comments you have. Please let me know what dates/times will work for you.

Thanks,
Sarah Cooper
Environmental Engineer
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Background for Mobile Source Emission Reduction Credits (MERCs)

When areas, such as Phoenix, have air quality that exceeds an ambient standard, federal “nonattainment” new source review applies to new or expanding large facilities. One requirement of this new source review is that the emissions increase from the new or expanding facility must be “offset” with real emissions reductions at other sources in the area.

Finding qualifying “emission reduction credits” or ERCs for this purpose is very challenging. As a result, many businesses are reluctant to locate in, or expand operations in, such nonattainment areas. In the drafting of a regulatory framework for MERCs, we are looking for a practical way to expand the availability of ERCs in the Phoenix area.

Historically, ERCs have come from either shutting down or controlling stationary sources in the nonattainment area. While mobile sources play a big part in the emissions in any such area, creating ERCs through reductions in mobile source emissions has not been successful.

Several areas (i.e., Los Angeles, San Diego, Sacramento, and Texas) have promulgated rules governing the creation of mobile source ERCs; however, generation of mobile source ERCs under these rules has largely been unsuccessful. No mobile source ERCs have been generated in Los Angeles, Sacramento, or Texas. A limited number of credits have been generated in San Diego, but none within the past ten years. The failure of these rules is related to the challenges of getting credits approved, the valuation of emissions reductions, and the burdens placed on credit generators and users. Mobile sources are a very promising source of ERCs and they can be important to the economic future of any nonattainment area, in this case, Phoenix.

In drafting a regulatory framework for MERCs, which is designed to complement the current ERC Rule 204, we have addressed a number of the barriers in past rules while still meeting the regulatory intent of creating and retiring ERCs.

**PROPOSED WORKING DRAFT
MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS**

**MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC) GENERATION,
CERTIFICATION, AND USE**

INDEX

SECTION 100 – PURPOSE

SECTION 200 – DEFINITIONS

- 201 ACCOUNT HOLDER
- 202 ARIZONA EMISSIONS BANK
- 203 BASELINE EMISSIONS
- 204 CERTIFIED CREDIT
- 205 EMISSION REDUCTION CREDIT (ERC)
- 206 ENFORCEABLE
- 207 GENERATOR
- 208 LOW EMITTING MOBILE SOURCE
- 209 MOBILE SOURCE
- 210 MOBILE SOURCE EMISSION REDUCTION CREDIT
- 211 MERC COMMITMENT AGREEMENT
- 212 OFFSETS
- 213 PERMANENT
- 214 QUALIFYING EMISSIONS
- 215 QUANTIFIABLE
- 216 REAL
- 217 SURPLUS

SECTION 300 – STANDARDS

- 301 ALTERNATIVE APPROACHES TO THE CREATION OF MERC'S
- 302 CERTIFICATION OF CREDITS FOR EMISSION REDUCTIONS
- 303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK
- 304 USE OF THE CERTIFIED CREDITS

SECTION 400 – ENFORCEMENT

SECTION 500 – MONITORING, RECORDS AND REPORTING

- 501 RECORDKEEPING AND RECORDS RETENTION
- 502 INSPECTIONS
- 503 GENERATOR RECORDS
- 504 REPORTING

APPENDICES

APPENDIX A CALCULATIONS FOR DETERMINING EMISSION REDUCTION CREDITS FOR VEHICLE CONVERSIONS OR REPLACEMENTS UNDER SECTION 301.1 OPTION 1

APPENDIX B CALCULATIONS FOR DETERMINING EMISSION REDUCTION CREDITS FOR VEHICLE CONVERSIONS OR REPLACEMENTS UNDER SECTION 301.1 OPTION 2

APPENDIX C CALCULATIONS FOR DETERMINING EMISSION REDUCTION CREDITS FOR LOW EMISSIONS NEW VEHICLES UNDER SECTION 301.2.

DRAFT

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES**

**MOBILE SOURCE EMISSION REDUCTION CREDITS (MERCs) GENERATION,
CERTIFICATION, AND USE**

SECTION 100 – PURPOSE This rule establishes the mechanism to create Emission Reduction Credits (ERCs) through the voluntary reduction in the emissions from mobile sources. Such ERCs are referred to here as Mobile Source Emission Reduction Credits or MERCs. This rule is designed to supplement the more general mechanisms for ERCs in Rule 204 but is functionally separate from Rule 204. All MERCs are expressed in units of tons per year, they can be created for any criteria pollutant, and they are for use in meeting the emissions offset requirements of nonattainment New Source Review. Mobile sources include on and off-road motorized vehicles, including locomotives.

To facilitate the creation and trading of emission reduction credits (ERCs) resulting from reductions in emissions of mobile sources, this rule provides procedures for the following actions:

- Creating emission reduction credits for reductions in mobile source emissions.
- Certifying credits as meeting offset requirements in advance of the certified credits' use for that purpose.
- Registering certified credits in the Arizona Emissions Bank.
- Using certified credits registered in the Arizona Emissions Bank.
- Using certified credits not registered in the Arizona Emissions Bank.

SECTION 200 – DEFINITIONS For the purpose of this rule, the following definitions shall apply in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.

- 201 ACCOUNT HOLDER:** Any person or entity who has opened an account with the Arizona Emissions Bank.
- 202 ARIZONA EMISSIONS BANK:** The system created by the Arizona Department of Environmental Quality (ADEQ) to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.
- 203 BASELINE EMISSIONS:** The average rate, in tons per year, at which the mobile source or sources actually emitted the pollutant(s) during the two preceding calendar years, or two calendar years more representative of normal emissions within the 5-year period immediately before the emissions reduction is achieved.
- 204 CERTIFIED CREDIT:** An ERC that has met the criteria in this rule for certification and has been issued by the Maricopa County Air Quality Department (MCAQD).
- 205 EMISSION REDUCTION CREDIT (ERC):** A reduction in qualifying emissions, expressed in tons per year, for which a generator has submitted an application pursuant

to this rule. ERCs, including MERCs, do not have property rights associated with them.

- 206 ENFORCEABLE:** Specific measures for assessing compliance with an emissions limitation, control, or other requirement established in a permit or in this rule in a manner that allows compliance to be readily determined by, but not limited to, an inspection of records and reports.
- 207 GENERATOR:** Any permitted source or other entity that has made or proposes to make reductions in emissions for the purpose of creating MERCs.
- 208 LOW EMITTING MOBILE SOURCE:** A mobile source that has lower emissions of the pollutant(s) for which MERCs are being sought when compared to the allowed emissions of the alternative conventional mobile source it is replacing.
- 209 MOBILE SOURCE:** Any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest. This definition does not include auxiliary engines that are not used to propel the device, machine or equipment.
- 210 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC):** A reduction in the emissions of one or more mobile sources, expressed in tons per year, for which a generator has submitted an application pursuant to this rule. MERCs do not have property rights associated with them.
- 211 MERC COMMITMENT AGREEMENT** A document executed by both the county and the generator. It contains a set of enforceable conditions that ensure that the MERCs meet the requirements of this rule. This approach applies primarily when the generator does not have a permit associated with the mobile sources that are generating the MERCs. It is executed both by the County and the generator prior to the issuance of a certified credit.
- 212 OFFSETS:** Reductions in emissions required under Rule 240 (Federal Major New Source Review (NSR)) of these rules.
- 213 PERMANENT:** Reductions in qualifying emissions that are enforceable and enduring as specified in this rule.
- 214 QUALIFYING EMISSIONS:** Emissions of any criteria air pollutant, other than elemental lead, or any precursor of a criteria air pollutant from any activity when generated within the Maricopa County nonattainment area associated with the pollutant.
- 215 QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and addressed in terms of character. The methodologies for emissions quantification are presented in Appendices A, B and C.
- 216 REAL:** A reduction in actual emissions released to the air resulting from a physical change, or change to the method of operations by a generator.

- 217 **SURPLUS:** A reduction in qualifying emissions not otherwise required by a federally applicable requirement and not relied upon in the State Implementation Plan (SIP).

SECTION 300 – STANDARDS

301 ALTERNATIVE APPROACHES TO THE CREATION OF MERCs

MERCs can be established in a number of ways:

301.1 Replacement or Conversion of Mobile Sources to Lower Emission Configurations or Operations

Under this approach, the MERC generator replaces one or more existing motor vehicle(s) with lower emitting vehicles or converts existing vehicles to low emitting configurations through enforceable changes to the fuel used, the addition of controls, and/or engine replacement.

The MERCs associated with this action are determined in one of two ways, at the option of the MERC generator:

- Under the first option, the annual emissions reduction is determined based on the difference in emissions, in tons per year, between the baseline actual emission of the mobile source(s) and the expected emissions with the new configuration. These annual tons are creditable for the remaining useful life of the vehicle being replaced or converted. The tons in each creditable year are summed and then divided by 15 years to create a ton per year value for the MERCs being generated by this action.
- Under the second approach, the annual emissions reduction is determined based on the difference between the allowable emission rate of a new vehicle in the year the MERCs are being established and the expected emission rate of the proposed alternative configuration. This difference is applied to the expected use rate of the converted or replaced vehicle. If the generator commits to replacing these vehicles with vehicles emitting the same or less of the MERC pollutant, on a per mile basis, for a period of at least 15 years, the MERCs are based on the calculated annual reduction in emissions.

301.2 New, Low Emitting Mobile Sources

Under this approach, the MERCs are generated by an enforceable commitment to a lower emitting technology when adding mobile sources to a new or an existing fleet. The MERC, in tons per year, is based on the difference in emissions between the legally required emission rate and the expected performance of the lower emitting technology applied to a representative usage rate for the new vehicle(s). The generator commits to replacing these vehicles with vehicles emitting the same or less of each MERC pollutant, on a per mile basis, for a period of at least 15 years. The MERCs are based on the calculated annual reduction in emissions.

302 CERTIFICATION OF CREDITS FOR EMISSION REDUCTIONS:

302.1 Application:

- a. The owner or operator of one or more motor vehicles may apply for certified credits for reductions in qualifying emissions at any time after filing either of the following with the Control Officer:
 - (1) An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable; or
 - (2) An application seeking the issuance of an enforceable MERC Commitment Agreement which will make the reductions in qualifying emissions permanent and enforceable.
- b. An application for certified MERCs shall be filed with the Control Officer on the form prescribed by the MCAQD and shall include:
 - (1) Information on the identity, type, ownership, location and use of the mobile sources for which reductions are to be used to generate MERCs;
 - (2) A description of the actions that have resulted or will result in the reductions in qualifying emissions;
 - (3) Information on the amount of and methodology for calculating the reductions in qualifying emissions for each pollutant subject to the application;
 - (4) Other information necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, enforceable, and real;
 - (5) The actual date or anticipated date of the reductions in qualifying emissions, as applicable; and
 - (6) A signed statement by a responsible official, as defined in Rule 100 (General Provisions and Definitions), verifying the truthfulness and accuracy of all information provided in the application.

302.2 Action on Application: The Control Officer shall review the application for credits and:

- a. Prepare either a permit amendment or a MERC Commitment Form which will make the MERC actions enforceable. Review the MERC commitment enforcement provisions with the MERC generator. Obtain agreement with the MERC generator on these terms becoming enforceable.
- b. Issue one certified credit in tons per year, as rounded down to the nearest one tenth(1/10) of a ton per year, of reduction that qualifies under this rule.
- c. Provide the applicant with a certificate representing the number of certified credits issued. If no emission reductions qualify to be certified, then no certified credits will be issued.

303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK:

Certified credits may be registered in the Arizona Emissions Bank but registration is not required. To register a certified credit:

303.1 Owner: The owner of MERCs:

- a. Indicate on the MCAQD emission reduction credit application their plan to register the certified credits in the Arizona Emission Bank; and
- b. Open an Arizona Emissions Bank account per A.A.C. R18-2-1206 A.

303.2 Control Officer: The Control Officer shall notify the ADEQ of the number of certified credits issued to the generator on a form prescribed by the ADEQ.

304 USE OF THE CERTIFIED CREDITS:

304.1 Certified Credits Registered in the Arizona Emissions Bank:

- a. An account holder, who intends to use the certified credits held in its account as offsets for its own NSR action or intends to transfer those credits to another party shall file an application to use or transfer the certified credits on the form prescribed by the ADEQ.
- b. On approval of the application, the ADEQ shall:
 - (1) Issue a certificate to the account holder representing the number of certified credits that may be included in the permit or permit revision application of the stationary source;
 - (2) Notify the Control Officer of the issuance of the certificate; and
 - (3) Change the status of the certified credits to use approved.
- c. The Control Officer shall provide notice to the ADEQ of the final action on the stationary source's application for a permit or for a permit revision.
- d. Reductions in qualifying emissions reflected in the number of certified credits shall be implemented before actual construction of the new stationary source or modification begins.

304.2 Certified Credits Not Registered in the Arizona Emissions Bank:

- a. The owner or operator of a stationary source who intends to use certified credits that are not registered in the Arizona Emissions Bank as offsets shall:
 - (1) Notify the MCAQD of the intention to use the certified credits as an offset to meet emission limits; and
 - (2) Submit the certificate of issued certified credits to the MCAQD in conjunction with a stationary source permit application or permit revision.
- b. The Control Officer shall either:
 - (1) Approve the use of the certified credits as offsets and:
 - (a) Notify the owner of operator of the number of certified credits that may be included in the permit or permit revision application of the stationary source; and

- (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
- (2) Deny the use of use of the certified credits for offsets and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) Return the certificate of issued certified credits to the owner or operator of the stationary source.

SECTION 400 – ENFORCEMENT

- 401 The voluntary commitments made to create the MERCs are made federally enforceable in one of two ways:
- 401.1 **Facility permit:** If the mobile sources are operated on site or are operated in conjunction with a permitted facility, the conditions related to the creation of the MERCs can be included in the facility permit, thereby making them federally enforceable. These conditions are called out as being the basis of the MERCs and are attributed to conformance with this rule.
 - 401.2 **MERC Commitment Agreement:** The MERC generator enters into an agreement with the MCAQD, made federally enforceable under this rule. This agreement makes all of the conditions related to the creation of the MERCs enforceable.
- 402 The enforceable conditions, in a permit or under an agreement, that are specifically related to the creation of MERCs can only be terminated, removed or modified as allowed under this rule.
- 403 The conditions related to the creation of the MERCs, that are in the facility permit or the commitment agreement, shall apply to each mobile source for 15 years after the emission reduction first occurs for that mobile source. These conditions can be removed from the facility permit fifteen years after the emission reductions for all the mobile sources have begun. The MERC commitment agreement will expire fifteen years after the emissions reductions for all the mobile sources covered by the agreement have begun.
- 404 To the extent MERCs have been created prior to the creation of this rule, the enforceable provisions associated with those MERCs will be enforceable under this rule and may lapse 15 years after the year the MERCs were recorded.

SECTION 500 – MONITORING, RECORDS AND REPORTING

- 501 **RECORDKEEPING AND RECORDS RETENTION:** Records and data required under the MERC enforceable conditions of either the facility permit or MERC commitment agreement shall be:
- 501.1 Kept readily available at all times by the generator in a consistent and complete manner, in either electronic or paper format.
 - 501.2 Made available upon request and without delay to the Control Officer or their designee.
 - 501.3 Maintained for five (5) years beyond the year that they are generated.
- 502 **INSPECTIONS:** A generator shall provide the Control Officer with access to the motor

vehicles associated with the generation of the MERCs for the purpose of conducting an inspection to verify compliance with this rule. An inspection may include, but is not limited to, a review of records and reports.

503 GENERATOR RECORDS: The MERC generator shall maintain the following records:

503.1 Inventory Records: A detailed inventory of motor vehicles used to generate credits shall be kept. The inventory shall include the following:

- For each motor vehicle:
 - A unique identification number (e.g. VIN).
 - The manufacturer.
 - The model and engine family.
 - The model year.
 - The engine type (if the credit is related to the engine used.)
 - The fuel type (if the credit is related to the use of a certain fuel or fuels)
- Information used to calculate emission reduction credits.
- The date each motor vehicle was:
 - Added to the inventory.
 - Removed from the inventory.
- The generator shall review and, if necessary, update the equipment inventory on a quarterly basis.

503.2 Operational Records:

The generator shall record the information on vehicle use that is specified in the permit revision or Commitment Agreement that enforces the conditions underlying the generation of the MERCs. These records may include the hours of operation, fuel use, mileage or another practical indicator of mobile source use.

504 GENERATOR REPORTING: The generator shall report annually on the status of the mobile sources associated with the MERCs and their operation over the course of the prior year in a format specified in the facility permit or the commitment agreement by the MCAQD.

APPENDIX A

CALCULATIONS FOR DETERMINING EMISSION REDUCTION CREDITS FOR VEHICLE CONVERSIONS OR REPLACEMENTS UNDER SECTION 301.1 OPTION 1

1. Baseline Emissions:

The MERC generator must document and characterize the vehicles to be converted or replaced in terms of:

- Vehicle or equipment type (e.g. refuse truck, transit bus, bulldozer, locomotive)
- Engine family of the vehicle or equipment engine obtained from the actual emissions label;
- In the case of equipment engines, the rated horsepower of the engine; and
- Current mileage of the vehicle or cumulative hours of operation of the equipment engine.

Baseline emission factors are determined using the information from the emissions label, the fuel-type, model-year and emission standards to which the vehicle or equipment engine was certified.

For vehicles, the appropriate baseline emission factor for each pollutant is determined using the latest version of U.S. EPA's Motor Vehicle Emission Simulator (MOVES) model or another model agreed upon by the MCAQD. The baseline emission factors are based on averaging of the factors for the two calendar years preceding the first calendar year during which the vehicle will be converted or replaced, or two calendar years more representative of normal emissions during the preceding 5-year period. Appropriate MOVES (or other approved information source) based emissions factors, in units of grams of pollutant emitted per mile of travel, must reflect the vehicle type, fuel type, model-year and the emissions standards to which the vehicle was certified. In the event that the MERC generator can document more severe use of the vehicle than would be expected for the average vehicle of similar type, the ratio of the actual load factor to the expected average load factor can be applied multiplicatively to the baseline emission factor.

The "remaining useful life" of the vehicle, in years, is determined by subtracting the actual mileage of the vehicle at the time of conversion or replacement from the cumulative lifetime miles assigned to similar vehicles by the MOVES model (or other approved information source) and then dividing that mileage figure by the average annual miles of operating during the specified two year period.

For equipment engines, appropriate baseline emission factors for each pollutant are to be determined using the latest version of the U.S. EPA's Motor Vehicle Emission Simulator (MOVES) model or another model agreed upon by the MCAQD. The baseline emission factors are based on averaging of the factors for the two calendar years preceding the first calendar year during which the vehicle will be converted or replaced or two calendar years more representative of normal emissions during the preceding 5-year period. Appropriate MOVES (or other approved information source)

based emissions factors in units of grams per pollutant emitted per hour of equipment operation must reflect the equipment type, fuel type, model-year, and the emissions standards to which the equipment engine was certified. In the event that the MERC generator can document more severe use of the equipment than would be expected on average for equipment of similar type, the ratio of the actual load factor to the expected average load factor can be applied multiplicatively to the baseline emission factor.

The “remaining useful life” of the equipment, in years, is determined by subtracting the actual cumulative hours of operation of the equipment at the time of conversion or replacement from the cumulative lifetime hours of operation assigned to similar equipment by the MOVES model (or other approved information source) and then dividing that figure by the average annual hours of operation during the two year baseline period.

2. Post Project Emissions:

The MERC generator must determine appropriate post project emission factors in units of grams of pollutant per mile or grams of pollutant per hour for the converted vehicle/equipment engine or the replacement vehicle/equipment engine using MOVES or other relevant data. To the extent that the baseline emission factor was adjusted to reflect severe use, the post project emission factor must be similarly adjusted.

3. Eligible Emissions Reduction Credits:

The eligible emission reduction credits (in units of tons per year) are equal to the difference between the baseline emission factor and the post project emission factor, converted to tons per hour or tons per mile, multiplied by the baseline average miles per year (or hours per year); then multiplied by the remaining useful life, in years, and finally divided by 15 years.

APPENDIX B

CALCULATIONS FOR DETERMINING EMISSION REDUCTION CREDITS FOR VEHICLE CONVERSIONS OR REPLACEMENTS UNDER SECTION 301.1 OPTION 2

1. Baseline Emissions:

The MERC generator must identify the type and characteristics of the vehicle or equipment engine that would otherwise be purchased and operated (absent the ERC generating commitment to a lower emitting technology). That is referred to here as the conventional technology. The appropriate baseline emission factor in units of grams per pollutant per mile or grams per pollutant per hour of operation for the conventional technology vehicle or equipment engine is to be determined from MOVES or other information source approved by the MCAQD. In the event that the MERC generator can document more severe use than would be expected for the average vehicle or equipment engine of similar type, the ratio of the actual load factor to the expected average load factor can be applied multiplicatively to the baseline emission factor.

The MERC generator must also develop data to support an estimate of the annual average miles or hours of operation of the conventional technology vehicle during the two calendar years preceding the first calendar year during which a vehicle or equipment engine was or will be converted or replaced or two calendar years more representative of normal emissions during the preceding 5-year period.

The baseline annual emissions for each pollutant are then the product of the conventional technology emission factor (converted to tons per mile or tons per hour) and the annual miles or hours of operation.

2. Post Project Emissions:

The MERC generator must determine appropriate emission factors in units of grams of pollutant per mile or grams of pollutant per hour for the lower emitting technology vehicle/equipment engine using MOVES or other relevant data. To the extent that the conventional technology emission factor was adjusted to reflect severe use, the lower emitting technology emission factor must be similarly adjusted. The annual post project emissions for the lower emitting technology vehicle or equipment engine is calculated as the product of the lower emitting technology emission factor and the average annual miles or hours of operation during the specified two year period used in determining the baseline emissions.

3. Eligible Emissions Reduction Credits:

The eligible emission reduction credits in units of tons per year are the difference between the baseline annual emissions and the post project annual emissions calculated for each individual vehicle and equipment engine summed over all of the vehicles and equipment engines included in the project.

APPENDIX C

CALCULATIONS FOR DETERMINING EMISSION REDUCTION CREDITS FOR LOW EMISSIONS NEW VEHICLES UNDER SECTION 301.2.

1. **Baseline Emissions:**

The MERC generator must identify the type and characteristics of the conventional technology vehicle or equipment engine that would otherwise be purchased and operated absent the program (e.g., a diesel fueled refuse truck). The appropriate baseline emission factor in units of grams of pollutant per mile or grams of pollutant per hour of operation for the conventional technology vehicle or equipment engine is to be determined from MOVES or other information source approved by the MCAQD. In the event that the MERC generator can document more severe use than would be expected for the average vehicle or equipment engine of similar type, the ratio of the actual load factor to the expected average load factor can be applied multiplicatively to the baseline emission factor.

The MERC generator must also propose and substantiate annual average miles or hours of operation for the conventional technology vehicles or equipment engines. To the extent that sufficient data to establish these values are not available, default values derived from MOVES or other source approved by MCAQD may be used.

The baseline annual emissions, in tons per year, are then the product of the conventional technology emission factor and the annual miles or hours of operation.

2. **Post Project Emissions:**

The MERC generator must determine appropriate emission factors in units of grams of pollutant per mile or grams of pollutant per hour for the lower emitting technology vehicle/equipment engine using MOVES or other relevant data. To the extent that the conventional technology emission factor was adjusted to reflect severe use, the lower emitting technology emission factor must be similarly adjusted. The annual post project emissions is calculated as the product of the lower emitting technology emission factor and the average annual miles or hours of operation used in determining the baseline emissions.

3. **Eligible Emissions Reduction Credits:**

The eligible emission reduction credits, in tons per year, are the difference between the annual baseline emission quantity and the post project annual emission quantity calculated for each individual vehicle and equipment engine summed over all of the vehicles and equipment engines included in the project.

From: Mccurry, Craig
Sent: Thursday, November 10, 2022 2:47 PM
To: Kimberly Butler (AQD) <Kimberly.Butler@Maricopa.gov>; Philip McNeely (AQD) <PHILIP.McNEELY@Maricopa.gov>; Gregory Verkamp (AQD) <Gregory.Verkamp@Maricopa.gov>
Cc: Aldrich, Sean D <sean.d.aldrich@intel.com>
Subject: Final Comments from Intel on Draft Rule 205 language

As promised here is final comments from Intel on the current draft of Rule 205. Looks like we are getting pretty close to a final version.

Please let me know if you have any questions on our comments. Waste Management also provided a little input as well.

Thanks, Craig



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Maricopa.gov/AQ
CleanAirMakeMore.com

MARICOPA COUNTY AIR QUALITY DEPARTMENT NOTICE OF STAKEHOLDER WORKSHOP

Date and Time: Wednesday, November 2, 2022, at 9:00 a.m.
Location: Attend Remotely via Go-To-Webinar

The Maricopa County Air Quality Department (MCAQD) will host a second Stakeholder Workshop regarding the creation of proposed Maricopa County Air Pollution Control Regulations, **Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)**. The workshop will focus on proposed revisions made to the draft rule since the first workshop was conducted on January 10, 2022. The draft rule is attached to this announcement.

Written comments regarding the draft rule may be submitted through the Maricopa County [Enhanced Regulatory Outreach Program](#) website.

Comments received prior to November 14, 2022, will be considered before the next version of the draft rule is posted to the EROP website.

This workshop will be held remotely, to attend please register through Go-To-Webinar at:

<https://attendee.gotowebinar.com/register/9067737691805709840>

(If link does not work, cut and paste link above in a browser)

After registering, you will receive a confirmation email containing information about joining the webinar. Please be aware that the webinar will begin at 9:00 a.m. and will end after all comments and questions from those in attendance have been addressed.

Overview: The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the Clean Air Act for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary fleet vehicle replacement or retrofit, allow for the generation, certification and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

MCAQD held the first stakeholder workshop for Rule 205 on January 10, 2022. Since the first stakeholder workshop, the MCAQD has received written comments from one stakeholder as well as feedback from the U.S. Environmental Protection Agency and internal staff and has made further revisions to the draft rule based on this feedback. Revisions made to the draft rule since the first workshop include:

- Adding definitions for Baseline Vehicle, Periodic Emissions Inventory, Mobile Source Emission Reduction Credit (MERC), Replacement Vehicle, and Retrofit Vehicle
- Revising definitions of Baseline Emissions, Captive Fleet, Certified Credit, Permanent, Qualifying Emissions, and Surplus
- Revising rule language throughout to delineate emission reductions that have been completed before the application for certification of credits or emissions reductions that have yet to be completed

Maricopa County Air Quality Department
Notice of Stakeholder Workshop

Date: November 2, 2022, at 9:00 a.m.
Page 2 of 2

- Adding citation of Rule 240 (Federal Major New Source Review) in § 100 and § 300 for enforceability
- Revising 301.1b to require additional information on the certified credit application regarding vehicle replacement and retrofit
- Revising 301.2 to include MERC evaluation criteria and a public participation requirement
- Adding 302.1d to allow for submission of an alternative calculation methodology to quantify emission reductions
- Revising 302.2c to specify documentation that must be maintained to demonstrate proper removal or disposal of the baseline vehicle
- Revising 302.2d to require the permitted generator to ensure that any replaced baseline vehicle is not operated in any captive fleet owned or operated by the permitted generator in the applicable nonattainment area
- Adding 302.2e which requires vehicle retrofit compliance with 40 CFR 85, Subpart F
- Adding 302.2f which specifies timing requirements the permitted generator must follow to demonstrate vehicle replacements or retrofits and baseline vehicle removal/disposal
- Adding first in, first out accounting of use of certified credits in § 304.3
- Revising language addressing surplus integrity in § 304.4
- Adding fee provisions under § 400 to provide for fees of ERC calculation review, ERC application processing, and a permit or permit revision.
- Revising and consolidating MERC generation monitoring requirements under § 503
- Revising and consolidating MERC generation recordkeeping requirements under § 504
- Revising Appendix A to further clarify baseline and post project calculations
- Adding Part D of Appendix A to provide a high pollution area incentive for the amount of eligible emission reduction credits

Next Steps: Following the Stakeholder Workshop, MCAQD will evaluate any comments received from stakeholders and make further revisions to the rule if determined necessary. MCAQD anticipates posting the Notice of Proposed Rulemaking to the EROP website in late November or early December, and then presenting the proposed rule to the Board of Health at the January 23, 2023 Board of Health meeting to make a recommendation to the Board of Supervisors to approve the proposed rule creation.

MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.



AQ-2021-004-Rule 205 (Emission Offsets Generated by
Voluntary Mobile Source Emission Reduction Credits)
Draft Rule for 2nd Stakeholder Workshop
November 2, 2022

Maricopa County Air Quality Dept.
Planning & Analysis Division
301 W. Jefferson St., Suite 410
Phoenix, AZ 85003

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

**RULE 205
EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
REDUCTION CREDITS**

INDEX

SECTION 100 – GENERAL

- 101 PURPOSE
- 102 APPLICABILITY

SECTION 200 – DEFINITIONS

- 201 ACCOUNT HOLDER
- 202 ARIZONA EMISSIONS BANK
- 203 BASELINE EMISSIONS
- 204 BASELINE VEHICLE
- 205 CAPTIVE FLEET
- 206 CERTIFIED EMISSION REDUCTION CREDIT
- 207 EMISSION REDUCTION CREDIT (ERC) or CREDIT
- 208 ENFORCEABLE
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC)
- 210 OFFSETS
- 211 PERIODIC EMISSIONS INVENTORY
- 212 PERMANENT
- 213 PERMITTED GENERATOR
- 214 QUALIFYING EMISSIONS
- 215 QUANTIFIABLE
- 216 REAL
- 217 REPLACEMENT VEHICLE
- 218 RETROFIT VEHICLE
- 219 SURPLUS



SECTION 300 – STANDARDS

- 301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION
REDUCTIONS BY A PERMITTED GENERATOR
- 302 MERC GENERATION
- 303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS
BANK
- 304 USE OF THE CERTIFIED CREDITS

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- 401 FEES

SECTION 500 – MONITORING AND RECORDS

- 501 RECORDKEEPING AND RECORDS RETENTION
- 502 INSPECTIONS
- 503 MERC GENERATION MONITORING
- 504 MERC GENERATION RECORDS

APPENDIX TO RULE 205

APPENDIX A: CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS
FROM EACH VEHICLE REPLACEMENT OR RETROFIT



Adopted MM/DD/YYYY

**MARICOPA COUNTY
 AIR POLLUTION CONTROL REGULATIONS
 REGULATION II – PERMITS AND FEES**

**RULE 205
 EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
 REDUCTION CREDITS**

SECTION 100 – GENERAL

- 101 PURPOSE:** To facilitate the creation and trading of mobile source emission reduction credits (MERCs) for use as offsets by a stationary source under Rule 240 (Federal Major New Source Review (NSR)) of these rules by providing a process for:
 - 101.1** Generating mobile source emission reduction credits for reductions achieved by permitted generators.
 - 101.2** Certifying credits as meeting offset requirements in advance of the certified credits' use for that purpose.
 - 101.3** Registering certified credits generated under this rule in the Arizona Emissions Bank.
 - 101.4** Using certified credits generated under this rule registered in the Arizona Emissions Bank.
 - 101.5** Using certified credits generated under this rule not registered in the Arizona Emissions Bank.
- 102 APPLICABILITY:** The provisions of this rule apply to the following persons and entities:
 - 102.1** The owner or operator of a captive fleet of vehicles who holds or intends to obtain a Maricopa County Air Quality Department Stationary Source Permit and has achieved or will achieve reductions in qualifying emissions in compliance with this rule.
 - 102.2** The owner or operator of a permitted stationary source that intends to use certified credits as offsets.

SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.

- 201 ACCOUNT HOLDER:** Any person or entity who has opened an account with the Arizona Emissions Bank.
- 202 ARIZONA EMISSIONS BANK:** The system created by the Arizona Department of Environmental Quality (ADEQ) to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.
- 203 BASELINE EMISSIONS:** The average rate, in tons per year ~~as rounded down to the nearest one-tenth (1/10) of a ton,~~ at which a baseline vehicle would have actually emitted the

Comment 12.1 - [Return to Response 12.1](#)



pollutant in absence of generating emission reductions during the two preceding calendars years, or two calendar years more representative of normal emissions within the 5-year period immediately before the reduction in qualifying emissions.

- 204 **BASELINE VEHICLE:** Captive fleet vehicle that has been replaced or retrofitted for a reduction in qualifying emissions.
- 205 **CAPTIVE FLEET:** A fleet of vehicles where all the vehicles in the fleet are identifiable, the locations where they are being operated can be tracked and recorded, their base of operation is in a nonattainment area within the jurisdiction of MCAQD, and which can serve as a permanent source of emission reductions when a vehicle is replaced or retrofitted. The captive fleet can include on-road or off-road vehicles.
- 206 **CERTIFIED EMISSION REDUCTION CREDIT:** An emission reduction credit that has met the criteria in this rule for certification and has been issued by the Maricopa County Air Quality Department (MCAQD). Certified credits do not have property rights associated with them.
- 207 **EMISSION REDUCTION CREDIT (ERC):** A reduction in qualifying emissions, expressed in tons per year as rounded down to the nearest one tenth (1/10) of a ton, for which a permitted generator has submitted an application pursuant to this rule.
- 208 **ENFORCEABLE:** Specific measures for assessing compliance with an emissions limitation, control, or other requirement established in a permit or in this rule in a manner that allows compliance to be readily determined by, but not limited to, an inspection of records and reports.
- 209 **MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC):** An ERC generated from a captive fleet vehicle.
- 210 **OFFSETS:** Reductions in emissions required under Rule 240 (Federal Major New Source Review (NSR)) of these rules.
- 211 **PERIODIC EMISSIONS INVENTORY:** In accordance with section 172(c)(3) of the Clean Air Act, the base year emissions inventory within the Maricopa County nonattainment area for the relevant conventional air pollutant or the most recent periodic update.
- 212 **PERMANENT:** A reduction in qualifying emissions used to offset emissions increases that are enduring for the remaining life of the corresponding emissions increase.
- 213 **PERMITTED GENERATOR:** The owner or operator of a captive fleet of vehicles that has or intends to obtain a Maricopa County Air Quality Permit that has made or proposes to make reductions in qualifying emissions.
- 214 **QUALIFYING EMISSIONS:** Emissions of any conventional air pollutant quantified in the periodic emissions inventory, other than elemental lead, or any precursor of a conventional air pollutant from any activity when generated within the Maricopa County nonattainment area associated with the conventional air pollutant.

Commented [MC1]: Intel believes the rounding down to the nearest ton should be removed from this definition but should be done once the entire fleet emission reductions are added up (as is shown in the Appendix). Doing rounding on an individual vehicle basis is not practical considering many emission factors are g/mile and annual emission per vehicle are well below a ton. For diesel NOx, the baseline can range from .04 to 0.35 tons/year. For gasoline vehicles and other pollutants, the baseline will be smaller. With this vehicle level rounding, a number of vehicles that can generate real creditable reductions would have a baseline of zero.



- 215 **QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and addressed in terms of character. Quantification may be based on emission factors, vehicle emissions testing, monitored values, operating rates, and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
- 216 **REAL:** A reduction in actual emissions released to the air resulting from a physical change or change to the method of operations by a permitted generator.
- 217 **REPLACEMENT VEHICLE:** Vehicle used to generate certified credits that is certified to an emission limit less than the baseline vehicle it replaces and is in compliance with the most recent applicable federal emission standard at the time of replacement.
- 218 **RETROFIT VEHICLE:** Captive fleet vehicle that has or will have any alteration, including components, design, and instructions to perform this alteration, of the vehicle or engine, its fueling system, or the integration of these systems, that allows the vehicle or engine to operate on a fuel or power source different from the fuel or power source for which the vehicle or engine was originally certified; and that is designed, constructed, and applied in compliance with the requirements in 40 CFR 85 and 86.
- 219 **SURPLUS:** A reduction in qualifying emissions below the emission limitations and standards used to comply with any otherwise federally applicable requirements and is not relied upon to meet any requirements in the State Implementation Plan (SIP).

SECTION 300 – STANDARDS

301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION REDUCTIONS BY A PERMITTED GENERATOR:

301.1 Application:

- a. The permitted generator may apply for certified credits for reductions in qualifying emissions for a vehicle replacement or retrofit that will comply with the applicable requirements in § 302 (MERC Generation) of this rule and after filing either of the following with the Control Officer in accordance with Rule 210 (Title V Permit Provisions) or Rule 220 (Non-Title V Permit Provisions) of these rules:
- (1) An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable; or
 - (2) An application for a permit seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable.
- b. An application for certified credits shall be filed with the Control Officer on the form prescribed by the MCAQD and shall include:
- (1) Information on the identity, type, ownership, and location of the permitted generator;



- (2) Inventory of the captive fleet, as specified in § 503.2, for which a replaced or retrofitted vehicle resulted or will result in reductions in qualifying emissions;
- (3) A description of the vehicle replacement or retrofits that have resulted or will result in surplus reductions in qualifying emissions, as well as a description of how the reductions in qualifying emissions will be permanent;
- (4) Information on the methodology for quantifying the surplus reductions in qualifying emissions for each pollutant subject to the application, including emissions calculations;
- (5) Information on the proper removal or disposal of baseline vehicles if the reductions in qualifying emissions were accomplished through vehicle replacement;
- (6) Information on the conversion system used if the reductions in qualifying emissions will be accomplished through vehicle retrofit;
- (7) Other information or records necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, federally enforceable, and real;
- (8) The actual date or anticipated date of the reductions in qualifying emissions, as applicable; and
- (9) A signed statement by a responsible official, as defined in Rule 100 (General Provisions and Definitions) of these rules, verifying the truthfulness and accuracy of all information provided in the application.

301.2 Action on Application: The Control Officer shall review the application for certified credits and:

- a. Evaluate whether the requested MERCs will be real, quantifiable, federally enforceable, permanent, and surplus and determine whether the MERCs meet the requirements of § 302 for generating MERCs.
- b. Provide public participation on the Control Officer's proposed determination to issue certified credits and a permit or permit revision per the provisions in Section 407 of Rule 220 of these rules. This requirement applies to all proposed actions to issue certified credits according to this rule. The proposed determination shall include the proposed permit or permit revision and the Control Officer's underlying analysis for proposing to certify the MERCs.
- c. If the Control Officer determines the requested credits meet the requirements of this rule and should be certified then the Control Officer shall:
 - (1) Issue either a permit or permit revision that incorporates the requirements of § 302.2, and any other necessary requirements, to make the reductions in qualifying emissions permanent and enforceable.
 - (2) Issue one certified credit for each ton, as rounded down to the nearest one tenth (1/10) of a ton, per year of reduction that qualifies as permanent, quantifiable, surplus, federally enforceable, and real.
 - (3) Provide the applicant with a certificate representing the number of certified credits issued. The certificate shall specify that the credits were certified



under this rule and shall specify whether the reductions in qualifying emissions have been implemented or the date by which the reductions are required to be implemented.

- d. If the Control Officer determines that none of the requested MERCs should be certified, then the applicant will be notified, and no credits will be issued and no permit or permit revision will be issued.

301.3 Registration of Certified Credits in the Arizona Emissions Bank: Certified credits may be registered in the Arizona Emissions Bank but registration is not required. See § 303 (Registration of Certified Credits in the Arizona Emissions Bank) of this rule for procedures regarding registration of certified credits in the Arizona Emissions Bank.

302 MERC GENERATION: A permitted generator that plans to replace or retrofit all or part of their captive fleet to generate a reduction in qualifying emissions:

302.1 May apply to certify MERCs by meeting the following requirements:

- a. **Location:** Demonstrate that the captive fleet of vehicles used to generate credits shall be based and operated within a nonattainment area within the jurisdiction of the MCAQD. Certified credits may only be granted for those reductions generated while operating in the nonattainment area. A baseline vehicles operation inside and outside the nonattainment area must be quantifiable.
- b. **Quantification of Baseline Emissions:** The permitted generator shall quantify baseline emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.
- c. **Quantification of Emission Reductions:**
 - (1) The permitted generator shall:
 - (a) Quantify the post project emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.
 - (b) Calculate the amount of emission reductions as rounded down to the nearest one tenth (1/10) of a ton.
 - (2) Calculations shall only include surplus reductions and shall not include emission reductions created or used under any other emissions trading program, emission reductions used to satisfy the State Implementation Plan including transportation conformity requirements, or any emissions reductions pursuant to a federal consent decree, or state and local settlements.
- d. **Alternative Calculation Methodology:** A permitted generator may use an alternative calculation methodology to quantify emission reductions upon approval from the Control Officer and the Administrator. All alternative calculation methodologies shall be submitted to the Administrator after

Comment 12.2 - [Return to Response 12.2](#)



completion of the public participation process in § 301.2, and shall include any public comments received and the Control Officer's response to the public comments. The Administrator shall be provided 60 days to review the submittal. Written approval from the Administrator is required prior to using an alternative calculation methodology.

- 302.2** Shall comply with all of the following operating, maintenance, monitoring, removal/disposal, replacement, and recordkeeping requirements:
- a. Operation and Maintenance:** The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer's written instructions and maintenance program.
 - b. Monitoring of Captive Fleet:** The permitted generator shall monitor the captive fleet used to generate credits as specified in § 503 to ensure the replaced or retrofitted vehicles continue to generate permanent emission reductions as represented in the application in § 301.1(b)(3).
 - c. Removal/Disposal of Replaced Baseline Vehicles:** The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale or other transfer documentation ~~and the vehicle registration showing it is not registered in Maricopa County or any other nonattainment area in the United States.~~
 - d. Subsequent Vehicle Replacements:** The replacement or retrofitted vehicles that were used to acquire certified credits shall only be subsequently replaced with vehicles certified to an emission limit equivalent to or less than the replacement or retrofitted vehicle used to acquire certified credits and shall comply with the most recent applicable federal emission standard. This replacement requirement shall continue for 20 years from the issuance date of the certified credits. The permitted generator shall further ensure that any replaced baseline vehicle is not operated in any other captive fleet owned or operated by the permitted generator in the applicable Maricopa County nonattainment area.
 - e. Vehicle Retrofit:** The permitted generator shall ensure the retrofit vehicle used for generating certified credits satisfies the exemption from tampering prohibition of clean alternative fuel conversions through compliance with 40 CFR 85, Subpart F, and a valid corresponding certificate of conformity or notification submission to the EPA.
 - f. Timing:** The permitted generator shall demonstrate vehicle replacements or retrofits and removal/disposal of baseline vehicles occurred prior to the application for certified credits or shall meet an enforceable timeline established in the permit or permit revision required by § 301.2(b) that specifies how and by when this demonstration will be met.

Commented [MC2]: This was a good add because these methodologies can be complex and will likely evolve over time

Comment 12.3 - [Return to Response 12.3](#)

Commented [MC3]: Intel understands there should be required documentation that shows a bill of sale, a receipt from a scrap yard, or internal transfer document for each vehicle that is replaced. That documentation should be required to show the replaced vehicle was either sold to an entity outside the Maricopa County Non-attainment Area, scrapped and no longer a mobile source, or transferred internally (and re-registered) to a location that is within the company (or subsidiary) that is an attainment area for the pollutant that the credits were generated for. If the replaced vehicle was internally transferred the company can ensure it is not used again in the Maricopa County Non-attainment area. However, if the vehicle is sold to another party that is outside the Maricopa County Non-attainment area, the entity creating the mobile source credits cannot be reasonably expected to ensure subsequent transactions, on a vehicle they no longer own, and ensure that this vehicle is not used in ANY Non-Attainment Area in the United States. Knowing the final address of a sold vehicle and knowing if it is in or out of a nonattainment area is an undoable task. It is also unreasonable to expect the credit generator to secure the registration for a sold vehicle. For example, what is to be done if the vehicle is exported from the us? The regulatory agency would be in a much better position to run vehicle vin number searches of registrations within Maricopa County to ensure the replaced vehicle is at least not registered in the Maricopa County non-attainment area. This provision as presently written will be a deal breaker for some companies.

Commented [MC4]: We assume this is the responsibility of engine manufacturers

Comment 12.4 - [Return to Response 12.4](#)



g. Monitoring and Recordkeeping: Upon issuance of a permit or permit revision under this rule, a permitted generator is responsible for monitoring and recordkeeping as required in:

- (1) Section 501 (Recordkeeping and Records Retention);
- (2) Section 502 (Inspections);
- (3) Section 503 (MERC Generation Monitoring); and
- (4) Section 504 (MERC Generation Records).

303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK: The permitted generator may register certified credits with the Arizona Emissions Bank. To register a certified credit:

303.1 Owner or Operator: The permitted generator shall:

- a. Indicate on the MCAQD emission reduction credit application their plan to register the certified credits in the Arizona Emission Bank; and
- b. Open an Arizona Emissions Bank account per A.A.C. R18-2-1206.A.

303.2 Control Officer: The Control Officer shall notify the ADEQ of the number of certified credits issued to the permitted generator on a form prescribed by the ADEQ.

304 USE OF THE CERTIFIED CREDITS:

304.1 Certified Credits Registered in the Arizona Emissions Bank:

- a. An account holder who intends to use the certified credits under this rule held in its account as offsets shall file an application to use the certified credits on the form prescribed by the ADEQ.
- b. On approval of the application, by the ADEQ, the Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the user of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision



number. This will provide documentation on the availability of the remaining certified credits.

- c. The Control Officer shall provide notice to the ADEQ of the final action on the stationary source's application for a permit or for a permit revision and of any changes in the number of certified credits.
- d. Reductions in qualifying emissions reflected in the number of certified credits shall be implemented before actual operation of the new stationary source or modification begins.

304.2 Certified Credits Not Registered in the Arizona Emissions Bank:

- a. The owner or operator of a stationary source who intends to use certified credits that are not registered in the Arizona Emissions Bank as offsets shall:
 - (1) Notify the MCAQD of the intention to use the certified credits as an offset to meet the requirements of Rule 240 (Federal Major New Source Review) of these rules; and
 - (2) Submit the certificate of issued certified credits to the MCAQD in conjunction with a stationary source permit application or permit revision.
- b. The Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the owner or operator of the number of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.

304.3 First In, First Out Accounting: The owner or operator of the stationary source using certified credits must use the oldest credits in their possession first.

304.4 Review of MERC Integrity: At the time of use of certified credits under this rule, the Control Officer shall review the amount of previously issued certified credits remain surplus under this rule and shall revise the amount if necessary to maintain



surplus integrity. Any certified credits proposed to be used where the reductions in qualifying emissions were not implemented at the time of MERC application shall only be used if the reductions will be implemented before the new stationary source or modification using the credits begins operation of the new source or modification.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 FEES

401.1 A fee may be charged for the following:

- a. **Preliminary ERC Calculations Review:** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When review of ERC calculations is complete the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing ERC calculations and the balance due.
- b. **ERC Application Processing (for Certification):**
 - (1) The minimum fee due shall be an application fee of \$200.
 - (2) For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When application processing is completed and final costs are greater than the combined fees submitted under §§ 401.1a and b(1) of this rule, the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of evaluating and acting upon the application, minus the combined fees submitted under §§ 401.1a and b(1) of this rule, and the balance due.
- c. **Permit:** Permit fees applicable to either §§ 301.1a or b of this rule, as set forth in Rule 280 (Fees) of these rules.

401.2 **Fee adjustments:** The Control Officer shall adjust the hourly rate in §§ 401.1a & b every January 1, to the nearest 10 cents per hour, beginning on January 1, 2018. The Control Officer will multiply \$149.20 by the Consumer Price Index (CPI) for the most recent year and then divide by the CPI for the year 2016.

SECTION 500 – MONITORING AND RECORDS

501 **RECORDKEEPING AND RECORDS RETENTION:** Records and data required by this section shall be:

- 501.1 Kept on site at all times by the permitted generator in a consistent and complete manner, in either electronic or paper format.
- 501.2 Made available upon request and without delay to the Control Officer or his designee.
- 501.3 Unless otherwise specified, maintained for five (5) years after the record is created.

502 **INSPECTIONS:** A permitted generator shall provide the Control Officer with access to the premises for the purpose of conducting an inspection to verify compliance with this rule. An inspection may include, but is not limited to, a review of records and reports.



- 503 **MERC GENERATION MONITORING:** The permitted generator shall monitor parameters used to quantify certified credits beginning no later than issuance of the certified credits. All monitoring equipment shall be operated and maintained in accordance with the manufacturer's written instructions. At a minimum, the permitted generator shall monitor the following for each replaced or retrofitted vehicle used for obtaining certified credits:
- 503.1 Vehicle miles traveled (VMT) as determined by GPS tracking;
 - 503.2 Percent of VMT within the nonattainment area as determined by GPS tracking; and
 - 503.3 Any other parameter used to make the certified credits quantifiable, such as idling speed, idling emissions, or fuel use rate.
- 504 **MERC GENERATION RECORDS:** A permitted generator shall maintain the following records of its captive fleet:
- 504.1 **Certified Credit Records:** All records supporting the application for which certified credits were granted, including but not limited to: documentation of when a vehicle was retrofitted or replaced, documentation that the baseline vehicle or baseline vehicle engine was disposed of or removed from the nonattainment area, VMT for each baseline vehicle used to generate credits, and percent of VMT within the nonattainment area for each baseline vehicle used to generate credits. The records shall be maintained for at least 5 years following the use of the certified credits, regardless of any defenses under any federal or state statute of limitations.
 - 504.2 **Captive Fleet Inventory Records:** A detailed inventory of all fleet vehicles in the captive fleet that shall include all of the following and shall be reviewed and updated on a monthly basis:
 - a. For each fleet vehicle provide:
 - (1) The vehicle manufacturer.
 - (2) The model number.
 - (3) The model year.
 - (4) A description of the vehicle including serial number.
 - (5) Fuel type.
 - (6) Whether it was used to generate certified credits.
 - b. The date each vehicle was:
 - (1) Added to the inventory.
 - (2) Removed from the inventory.
 - c. The total number of vehicles in the captive fleet.
 - d. For each vehicle added to the inventory:
 - (1) Identify the vehicle removed in its place or whether the total number of vehicles in the captive fleet increased.
 - (2) If the vehicle is a replacement, identify whether it is replacing a vehicle that was replaced or retrofitted to generate certified credits.



- (3) If the vehicle is a replacement, identify whether the change resulted in the addition of a vehicle certified to higher, equivalent, or lower emissions standards and the documentation used to make this determination. For replacement or retrofitted vehicles that were used to generate credits the permitted generator must document that the replacement vehicle is certified to equivalent or lower standards than the vehicle or engine used to generate certified credits.
- 504.3 Operational Records:** The following operational records shall be maintained on a monthly basis upon issuance of the certified credits:
- a. **Monthly:** For each replacement or retrofitted vehicle used to generate certified credits, the permitted generator shall record a description of all maintenance and repairs, including the results and any corrective actions performed.
 - b. **Monthly:** For each replacement or retrofitted vehicle in the captive fleet, maintain monthly records of:
 - (1) Calendar month VMT.
 - (2) To date for the calendar year, the percent of VMT within the applicable nonattainment area.
 - (3) Monthly summary of any other monitoring required by Section 503 of this rule.
- 504.4 Vehicle Retrofit Records:** The permitted generator shall maintain record for each retrofitted vehicle that was used to generate certified credits that demonstrates exemption from tampering prohibition of clean alternative fuel conversions by compliance with 40 CFR 85, Subpart F. This includes the applicable valid certificate of conformity or notification submission to the EPA.
- 504.5 Replacement of Captive Fleet Vehicles:** For any captive fleet vehicle that was not used to generate certified credits and that is replaced with a vehicle certified to higher emissions standards than the vehicle it replaced, the permitted generator shall notify the Control Officer by the end of the month following the vehicle replacement. The Control Officer shall review permitted generator records and the captive fleet vehicle inventory used in the application for certified credits and determine whether the emission reductions resulting from certified credits remain permanent. The permitted generator and the Administrator shall be notified of the Control Officer's determination and the actions, if any, that must be taken to ensure the certified credits remain valid.
- 504.6 Annual Report:** Upon issuance of certified credits, and within 30 days after December 31 of each calendar year, the permitted generator shall submit an annual report to the Control Officer summarizing the captive fleet's operation and compliance with § 302.2(b) for the previous calendar year and provide: attest that any replaced baseline vehicle is not a part of any other captive fleet owned or operated by the permitted generator in Maricopa County and how this was verified, the current captive fleet inventory as specified by § 504.2, total annual VMT for each vehicle used to generate certified credits, and percentage of VMT each vehicle used to generate certified credits accrued in the applicable nonattainment area that calendar year.



**APPENDIX A
CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH
VEHICLE REPLACEMENT OR RETROFIT**

- A.** Baseline Emissions = Annual Utilization (miles/year) × Baseline Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant emitted.
 2. Annual Utilization is the aggregate number of annual average miles (using historical data for the two-year period selected according to the definition of baseline emissions in this rule) of actual vehicle utilization within the applicable nonattainment area.
 3. Baseline Pollutant Emissions Factor is determined using the baseline vehicle fuel type, baseline vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the United States Environmental Protection Agency's (EPA) Motor Vehicle Emission Simulator (MOVES) software. Baseline vehicle engine model year corresponds to the calendar year in which the emission reductions are generated by replacing or retrofitting the baseline vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- B.** Post Project Emissions = Annual Utilization (miles/year) × Post-Project Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant.
 2. Annual Utilization is the value from A.2.
 3. Post Project Pollutant Emissions Factor is determined using the replacement or retrofit vehicle fuel type, replacement or retrofit vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the EPA's MOVES software. For a retrofitted vehicle, the vehicle engine model year corresponds to the year the emission reductions are generated by retrofitting the baseline vehicle. For a replacement vehicle, the replacement vehicle engine model year corresponds to the model year of the replacement vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- C.** The amount of eligible emission reduction credits for each vehicle is determined by subtracting Post Project Emissions from Baseline Emissions.
- D.** **High Pollution Area Incentive:** The permitted generator may be eligible to use an earlier baseline vehicle engine model year to determine the amount of eligible emission reduction credits determined in Section C of this Appendix if the permitted generator can demonstrate the annual utilization of the vehicle occurs at least 75% of VMT within areas of high pollution as identified through EPA's EJScreen (Environmental Justice Screening and Mapping Tool) Environmental Justice Indexes. An area of high pollution shall be considered any area in the 90th national percentile or greater for the credited pollutant or applicable precursors. To be eligible, a gasoline baseline vehicle engine must be no more than 7 years older than the replaced or retrofitted vehicle engine or a diesel baseline vehicle engine must be no more than 11 years older than the replaced or retrofitted vehicle engine. Once determined to be eligible, vehicles may use a baseline vehicle engine model year that corresponds to the model year of the baseline vehicle.

Commented [MC5]: Innovative and a nice add. I am not sure whether tracking systems can easily take into account the EJ areas, especially if they change over time. WM does not think they would be capable of tracking this.

Comment 12.5 - [Return to Response 12.5](#)

Subject: FW: Final Comments from Intel on Draft Rule 205 language
Attachments: Draft MCAQD Rule 205 _ Nov 2_Workshop_Intel Comments - Updated Comments Nov 22.docx

From: Mccurry, Craig <craig.mccurry@intel.com>
Sent: Tuesday, November 22, 2022 1:34 PM
To: Kimberly Butler (AQD) <Kimberly.Butler@Maricopa.gov>
Cc: Aldrich, Sean D <sean.d.aldrich@intel.com>
Subject: RE: Final Comments from Intel on Draft Rule 205 language

Hi Kim, after talking to Dave from WM I added some suggested language in Section 302.2c which is a follow-up to what we discussed with you last week.

Anyway just added some clarification on the timing.

Thanks, Craig



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Maricopa.gov/AQ
CleanAirMakeMore.com

MARICOPA COUNTY AIR QUALITY DEPARTMENT NOTICE OF STAKEHOLDER WORKSHOP

Date and Time: Wednesday, November 2, 2022, at 9:00 a.m.
Location: Attend Remotely via Go-To-Webinar

The Maricopa County Air Quality Department (MCAQD) will host a second Stakeholder Workshop regarding the creation of proposed Maricopa County Air Pollution Control Regulations, **Rule 205 (Emission Offsets Generated by Voluntary Mobile Source Emission Reduction Credits)**. The workshop will focus on proposed revisions made to the draft rule since the first workshop was conducted on January 10, 2022. The draft rule is attached to this announcement.

Written comments regarding the draft rule may be submitted through the Maricopa County [Enhanced Regulatory Outreach Program](#) website.

Comments received prior to November 14, 2022, will be considered before the next version of the draft rule is posted to the EROP website.

This workshop will be held remotely, to attend please register through Go-To-Webinar at:

<https://attendee.gotowebinar.com/register/9067737691805709840>

(If link does not work, cut and paste link above in a browser)

After registering, you will receive a confirmation email containing information about joining the webinar. Please be aware that the webinar will begin at 9:00 a.m. and will end after all comments and questions from those in attendance have been addressed.

Overview: The purpose of this rulemaking is to create a new economic development rule to meet the federal New Source Review (NSR) offset requirements in the Clean Air Act for mobile source emission reduction credits (MERCs). Currently, insufficient emission reduction credits exist in the Arizona Emissions Bank to permit large new or existing modified projects. This rule will, through voluntary fleet vehicle replacement or retrofit, allow for the generation, certification and use of MERCs as federal NSR emission offsets. In providing a mechanism for the voluntary generation of MERCs, Maricopa County will continue to move towards attainment of the national ambient air quality standards while still allowing for industrial growth.

MCAQD held the first stakeholder workshop for Rule 205 on January 10, 2022. Since the first stakeholder workshop, the MCAQD has received written comments from one stakeholder as well as feedback from the U.S. Environmental Protection Agency and internal staff and has made further revisions to the draft rule based on this feedback. Revisions made to the draft rule since the first workshop include:

- Adding definitions for Baseline Vehicle, Periodic Emissions Inventory, Mobile Source Emission Reduction Credit (MERC), Replacement Vehicle, and Retrofit Vehicle
- Revising definitions of Baseline Emissions, Captive Fleet, Certified Credit, Permanent, Qualifying Emissions, and Surplus
- Revising rule language throughout to delineate emission reductions that have been completed before the application for certification of credits or emissions reductions that have yet to be completed

Maricopa County Air Quality Department
Notice of Stakeholder Workshop

Date: November 2, 2022, at 9:00 a.m.
Page 2 of 2

- Adding citation of Rule 240 (Federal Major New Source Review) in § 100 and § 300 for enforceability
- Revising 301.1b to require additional information on the certified credit application regarding vehicle replacement and retrofit
- Revising 301.2 to include MERC evaluation criteria and a public participation requirement
- Adding 302.1d to allow for submission of an alternative calculation methodology to quantify emission reductions
- Revising 302.2c to specify documentation that must be maintained to demonstrate proper removal or disposal of the baseline vehicle
- Revising 302.2d to require the permitted generator to ensure that any replaced baseline vehicle is not operated in any captive fleet owned or operated by the permitted generator in the applicable nonattainment area
- Adding 302.2e which requires vehicle retrofit compliance with 40 CFR 85, Subpart F
- Adding 302.2f which specifies timing requirements the permitted generator must follow to demonstrate vehicle replacements or retrofits and baseline vehicle removal/disposal
- Adding first in, first out accounting of use of certified credits in § 304.3
- Revising language addressing surplus integrity in § 304.4
- Adding fee provisions under § 400 to provide for fees of ERC calculation review, ERC application processing, and a permit or permit revision.
- Revising and consolidating MERC generation monitoring requirements under § 503
- Revising and consolidating MERC generation recordkeeping requirements under § 504
- Revising Appendix A to further clarify baseline and post project calculations
- Adding Part D of Appendix A to provide a high pollution area incentive for the amount of eligible emission reduction credits

Next Steps: Following the Stakeholder Workshop, MCAQD will evaluate any comments received from stakeholders and make further revisions to the rule if determined necessary. MCAQD anticipates posting the Notice of Proposed Rulemaking to the EROP website in late November or early December, and then presenting the proposed rule to the Board of Health at the January 23, 2023 Board of Health meeting to make a recommendation to the Board of Supervisors to approve the proposed rule creation.

MCAQD will take reasonable measures to provide access to department services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities. Requests for language interpretation services or for disability accommodations must be made at least 48 hours in advance by contacting: 602-506-6443.

MCAQD tomará las medidas necesarias para brindar acceso a los servicios del departamento a personas que no dominan el idioma inglés y/o personas con discapacidades. Las solicitudes de servicios de interpretación de otro idioma o adaptaciones para discapacitados deben realizarse con al menos 48 horas de anticipación comunicándose con: 602-506-6443.



AQ-2021-004-Rule 205 (Emission Offsets Generated by
Voluntary Mobile Source Emission Reduction Credits)
Draft Rule for 2nd Stakeholder Workshop
November 2, 2022

Maricopa County Air Quality Dept.
Planning & Analysis Division
301 W. Jefferson St., Suite 410
Phoenix, AZ 85003

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

**RULE 205
EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
REDUCTION CREDITS**

INDEX

SECTION 100 – GENERAL

- 101 PURPOSE
- 102 APPLICABILITY

SECTION 200 – DEFINITIONS

- 201 ACCOUNT HOLDER
- 202 ARIZONA EMISSIONS BANK
- 203 BASELINE EMISSIONS
- 204 BASELINE VEHICLE
- 205 CAPTIVE FLEET
- 206 CERTIFIED EMISSION REDUCTION CREDIT
- 207 EMISSION REDUCTION CREDIT (ERC) or CREDIT
- 208 ENFORCEABLE
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC)
- 210 OFFSETS
- 211 PERIODIC EMISSIONS INVENTORY
- 212 PERMANENT
- 213 PERMITTED GENERATOR
- 214 QUALIFYING EMISSIONS
- 215 QUANTIFIABLE
- 216 REAL
- 217 REPLACEMENT VEHICLE
- 218 RETROFIT VEHICLE
- 219 SURPLUS



SECTION 300 – STANDARDS

- 301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION
REDUCTIONS BY A PERMITTED GENERATOR
- 302 MERC GENERATION
- 303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS
BANK
- 304 USE OF THE CERTIFIED CREDITS

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- 401 FEES

SECTION 500 – MONITORING AND RECORDS

- 501 RECORDKEEPING AND RECORDS RETENTION
- 502 INSPECTIONS
- 503 MERC GENERATION MONITORING
- 504 MERC GENERATION RECORDS

APPENDIX TO RULE 205

APPENDIX A: CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS
FROM EACH VEHICLE REPLACEMENT OR RETROFIT



Adopted MM/DD/YYYY

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

RULE 205

**EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
REDUCTION CREDITS**

SECTION 100 – GENERAL

- 101 PURPOSE:** To facilitate the creation and trading of mobile source emission reduction credits (MERCs) for use as offsets by a stationary source under Rule 240 (Federal Major New Source Review (NSR)) of these rules by providing a process for:
 - 101.1** Generating mobile source emission reduction credits for reductions achieved by permitted generators.
 - 101.2** Certifying credits as meeting offset requirements in advance of the certified credits' use for that purpose.
 - 101.3** Registering certified credits generated under this rule in the Arizona Emissions Bank.
 - 101.4** Using certified credits generated under this rule registered in the Arizona Emissions Bank.
 - 101.5** Using certified credits generated under this rule not registered in the Arizona Emissions Bank.
- 102 APPLICABILITY:** The provisions of this rule apply to the following persons and entities:
 - 102.1** The owner or operator of a captive fleet of vehicles who holds or intends to obtain a Maricopa County Air Quality Department Stationary Source Permit and has achieved or will achieve reductions in qualifying emissions in compliance with this rule.
 - 102.2** The owner or operator of a permitted stationary source that intends to use certified credits as offsets.

SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.

- 201 ACCOUNT HOLDER:** Any person or entity who has opened an account with the Arizona Emissions Bank.
- 202 ARIZONA EMISSIONS BANK:** The system created by the Arizona Department of Environmental Quality (ADEQ) to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.
- 203 BASELINE EMISSIONS:** The average rate, in tons per year ~~as rounded down to the nearest one-tenth (1/10) of a ton~~, at which a baseline vehicle would have actually emitted the



pollutant in absence of generating emission reductions during the two preceding calendar years, or two calendar years more representative of normal emissions within the 5-year period immediately before the reduction in qualifying emissions.

- 204 **BASELINE VEHICLE:** Captive fleet vehicle that has been replaced or retrofitted for a reduction in qualifying emissions.
- 205 **CAPTIVE FLEET:** A fleet of vehicles where all the vehicles in the fleet are identifiable, the locations where they are being operated can be tracked and recorded, their base of operation is in a nonattainment area within the jurisdiction of MCAQD, and which can serve as a permanent source of emission reductions when a vehicle is replaced or retrofitted. The captive fleet can include on-road or off-road vehicles.
- 206 **CERTIFIED EMISSION REDUCTION CREDIT:** An emission reduction credit that has met the criteria in this rule for certification and has been issued by the Maricopa County Air Quality Department (MCAQD). Certified credits do not have property rights associated with them.
- 207 **EMISSION REDUCTION CREDIT (ERC):** A reduction in qualifying emissions, expressed in tons per year as rounded down to the nearest one tenth (1/10) of a ton, for which a permitted generator has submitted an application pursuant to this rule.
- 208 **ENFORCEABLE:** Specific measures for assessing compliance with an emissions limitation, control, or other requirement established in a permit or in this rule in a manner that allows compliance to be readily determined by, but not limited to, an inspection of records and reports.
- 209 **MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC):** An ERC generated from a captive fleet vehicle.
- 210 **OFFSETS:** Reductions in emissions required under Rule 240 (Federal Major New Source Review (NSR)) of these rules.
- 211 **PERIODIC EMISSIONS INVENTORY:** In accordance with section 172(c)(3) of the Clean Air Act, the base year emissions inventory within the Maricopa County nonattainment area for the relevant conventional air pollutant or the most recent periodic update.
- 212 **PERMANENT:** A reduction in qualifying emissions used to offset emissions increases that are enduring for the remaining life of the corresponding emissions increase.
- 213 **PERMITTED GENERATOR:** The owner or operator of a captive fleet of vehicles that has or intends to obtain a Maricopa County Air Quality Permit that has made or proposes to make reductions in qualifying emissions.
- 214 **QUALIFYING EMISSIONS:** Emissions of any conventional air pollutant quantified in the periodic emissions inventory, other than elemental lead, or any precursor of a conventional air pollutant from any activity when generated within the Maricopa County nonattainment area associated with the conventional air pollutant.

Commented [MC1]: Intel believes the rounding down to the nearest ton should be removed from this definition but should be done once the entire fleet emission reductions are added up (as is shown in the Appendix). Doing rounding on an individual vehicle basis is not practical considering many emission factors are g/mile and annual emission per vehicle are well below a ton. For diesel NOx, the baseline can range from .04 to 0.35 tons/year. For gasoline vehicles and other pollutants, the baseline will be smaller. With this vehicle level rounding, a number of vehicles that can generate real creditable reductions would have a baseline of zero.



- 215 **QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and addressed in terms of character. Quantification may be based on emission factors, vehicle emissions testing, monitored values, operating rates, and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
- 216 **REAL:** A reduction in actual emissions released to the air resulting from a physical change or change to the method of operations by a permitted generator.
- 217 **REPLACEMENT VEHICLE:** Vehicle used to generate certified credits that is certified to an emission limit less than the baseline vehicle it replaces and is in compliance with the most recent applicable federal emission standard at the time of replacement.
- 218 **RETROFIT VEHICLE:** Captive fleet vehicle that has or will have any alteration, including components, design, and instructions to perform this alteration, of the vehicle or engine, its fueling system, or the integration of these systems, that allows the vehicle or engine to operate on a fuel or power source different from the fuel or power source for which the vehicle or engine was originally certified; and that is designed, constructed, and applied in compliance with the requirements in 40 CFR 85 and 86.
- 219 **SURPLUS:** A reduction in qualifying emissions below the emission limitations and standards used to comply with any otherwise federally applicable requirements and is not relied upon to meet any requirements in the State Implementation Plan (SIP).

SECTION 300 – STANDARDS

301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION REDUCTIONS BY A PERMITTED GENERATOR:

301.1 Application:

- a. The permitted generator may apply for certified credits for reductions in qualifying emissions for a vehicle replacement or retrofit that will comply with the applicable requirements in § 302 (MERC Generation) of this rule and after filing either of the following with the Control Officer in accordance with Rule 210 (Title V Permit Provisions) or Rule 220 (Non-Title V Permit Provisions) of these rules:
 - (1) An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable; or
 - (2) An application for a permit seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable.
- b. An application for certified credits shall be filed with the Control Officer on the form prescribed by the MCAQD and shall include:
 - (1) Information on the identity, type, ownership, and location of the permitted generator;



- (2) Inventory of the captive fleet, as specified in § 503.2, for which a replaced or retrofitted vehicle resulted or will result in reductions in qualifying emissions;
- (3) A description of the vehicle replacement or retrofits that have resulted or will result in surplus reductions in qualifying emissions, as well as a description of how the reductions in qualifying emissions will be permanent;
- (4) Information on the methodology for quantifying the surplus reductions in qualifying emissions for each pollutant subject to the application, including emissions calculations;
- (5) Information on the proper removal or disposal of baseline vehicles if the reductions in qualifying emissions were accomplished through vehicle replacement;
- (6) Information on the conversion system used if the reductions in qualifying emissions will be accomplished through vehicle retrofit;
- (7) Other information or records necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, federally enforceable, and real;
- (8) The actual date or anticipated date of the reductions in qualifying emissions, as applicable; and
- (9) A signed statement by a responsible official, as defined in Rule 100 (General Provisions and Definitions) of these rules, verifying the truthfulness and accuracy of all information provided in the application.

301.2 Action on Application: The Control Officer shall review the application for certified credits and:

- a. Evaluate whether the requested MERCs will be real, quantifiable, federally enforceable, permanent, and surplus and determine whether the MERCs meet the requirements of § 302 for generating MERCs.
- b. Provide public participation on the Control Officer's proposed determination to issue certified credits and a permit or permit revision per the provisions in Section 407 of Rule 220 of these rules. This requirement applies to all proposed actions to issue certified credits according to this rule. The proposed determination shall include the proposed permit or permit revision and the Control Officer's underlying analysis for proposing to certify the MERCs.
- c. If the Control Officer determines the requested credits meet the requirements of this rule and should be certified then the Control Officer shall:
 - (1) Issue either a permit or permit revision that incorporates the requirements of § 302.2, and any other necessary requirements, to make the reductions in qualifying emissions permanent and enforceable.
 - (2) Issue one certified credit for each ton, as rounded down to the nearest one tenth (1/10) of a ton, per year of reduction that qualifies as permanent, quantifiable, surplus, federally enforceable, and real.
 - (3) Provide the applicant with a certificate representing the number of certified credits issued. The certificate shall specify that the credits were certified



under this rule and shall specify whether the reductions in qualifying emissions have been implemented or the date by which the reductions are required to be implemented.

- d. If the Control Officer determines that none of the requested MERCs should be certified, then the applicant will be notified, and no credits will be issued and no permit or permit revision will be issued.

301.3 Registration of Certified Credits in the Arizona Emissions Bank: Certified credits may be registered in the Arizona Emissions Bank but registration is not required. See § 303 (Registration of Certified Credits in the Arizona Emissions Bank) of this rule for procedures regarding registration of certified credits in the Arizona Emissions Bank.

302 MERC GENERATION: A permitted generator that plans to replace or retrofit all or part of their captive fleet to generate a reduction in qualifying emissions:

302.1 May apply to certify MERCs by meeting the following requirements:

- a. **Location:** Demonstrate that the captive fleet of vehicles used to generate credits shall be based and operated within a nonattainment area within the jurisdiction of the MCAQD. Certified credits may only be granted for those reductions generated while operating in the nonattainment area. A baseline vehicles operation inside and outside the nonattainment area must be quantifiable.
- b. **Quantification of Baseline Emissions:** The permitted generator shall quantify baseline emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.
- c. **Quantification of Emission Reductions:**
 - (1) The permitted generator shall:
 - (a) Quantify the post project emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.
 - (b) Calculate the amount of emission reductions as rounded down to the nearest one tenth (1/10) of a ton.
 - (2) Calculations shall only include surplus reductions and shall not include emission reductions created or used under any other emissions trading program, emission reductions used to satisfy the State Implementation Plan including transportation conformity requirements, or any emissions reductions pursuant to a federal consent decree, or state and local settlements.
- d. **Alternative Calculation Methodology:** A permitted generator may use an alternative calculation methodology to quantify emission reductions upon approval from the Control Officer and the Administrator. All alternative calculation methodologies shall be submitted to the Administrator after



completion of the public participation process in § 301.2, and shall include any public comments received and the Control Officer's response to the public comments. The Administrator shall be provided 60 days to review the submittal. Written approval from the Administrator is required prior to using an alternative calculation methodology.

- 302.2 Shall comply with all of the following operating, maintenance, monitoring, removal/disposal, replacement, and recordkeeping requirements:
- a. **Operation and Maintenance:** The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer's written instructions and maintenance program.
 - b. **Monitoring of Captive Fleet:** The permitted generator shall monitor the captive fleet used to generate credits as specified in § 503 to ensure the replaced or retrofitted vehicles continue to generate permanent emission reductions as represented in the application in § 301.1(b)(3).
 - c. **Removal/Disposal of Replaced Baseline Vehicles:** The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale or other transfer documentation ~~or~~ and the vehicle registration showing it is not registered in Maricopa County or any other nonattainment area in the United States at the time the credits are certified.
 - d. **Subsequent Vehicle Replacements:** The replacement or retrofitted vehicles that were used to acquire certified credits shall only be subsequently replaced with vehicles certified to an emission limit equivalent to or less than the replacement or retrofitted vehicle used to acquire certified credits and shall comply with the most recent applicable federal emission standard. This replacement requirement shall continue for 20 years from the issuance date of the certified credits. The permitted generator shall further ensure that any replaced baseline vehicle is not operated in any other captive fleet owned or operated by the permitted generator in the applicable Maricopa County nonattainment area.
 - e. **Vehicle Retrofit:** The permitted generator shall ensure the retrofit vehicle used for generating certified credits satisfies the exemption from tampering prohibition of clean alternative fuel conversions through compliance with 40 CFR 85, Subpart F, and a valid corresponding certificate of conformity or notification submission to the EPA.
 - f. **Timing:** The permitted generator shall demonstrate vehicle replacements or retrofits and removal/disposal of baseline vehicles occurred prior to the application for certified credits or shall meet an enforceable timeline established in the permit or permit revision required by § 301.2(b) that specifies how and by when this demonstration will be met.

Commented [MC2]: This was a good add because these methodologies can be complex and will likely evolve over time

Comment #32 - [Return to response #32.1](#)

Commented [MC3]: We assume this is the responsibility of engine manufacturers



g. Monitoring and Recordkeeping: Upon issuance of a permit or permit revision under this rule, a permitted generator is responsible for monitoring and recordkeeping as required in:

- (1) Section 501 (Recordkeeping and Records Retention);
- (2) Section 502 (Inspections);
- (3) Section 503 (MERC Generation Monitoring); and
- (4) Section 504 (MERC Generation Records).

303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK: The permitted generator may register certified credits with the Arizona Emissions Bank. To register a certified credit:

303.1 Owner or Operator: The permitted generator shall:

- a. Indicate on the MCAQD emission reduction credit application their plan to register the certified credits in the Arizona Emission Bank; and
- b. Open an Arizona Emissions Bank account per A.A.C. R18-2-1206.A.

303.2 Control Officer: The Control Officer shall notify the ADEQ of the number of certified credits issued to the permitted generator on a form prescribed by the ADEQ.

304 USE OF THE CERTIFIED CREDITS:

304.1 Certified Credits Registered in the Arizona Emissions Bank:

- a. An account holder who intends to use the certified credits under this rule held in its account as offsets shall file an application to use the certified credits on the form prescribed by the ADEQ.
- b. On approval of the application, by the ADEQ, the Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the user of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision



number. This will provide documentation on the availability of the remaining certified credits.

- c. The Control Officer shall provide notice to the ADEQ of the final action on the stationary source's application for a permit or for a permit revision and of any changes in the number of certified credits.
- d. Reductions in qualifying emissions reflected in the number of certified credits shall be implemented before actual operation of the new stationary source or modification begins.

304.2 Certified Credits Not Registered in the Arizona Emissions Bank:

- a. The owner or operator of a stationary source who intends to use certified credits that are not registered in the Arizona Emissions Bank as offsets shall:
 - (1) Notify the MCAQD of the intention to use the certified credits as an offset to meet the requirements of Rule 240 (Federal Major New Source Review) of these rules; and
 - (2) Submit the certificate of issued certified credits to the MCAQD in conjunction with a stationary source permit application or permit revision.
- b. The Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the owner or operator of the number of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.

304.3 First In, First Out Accounting: The owner or operator of the stationary source using certified credits must use the oldest credits in their possession first.

304.4 Review of MERC Integrity: At the time of use of certified credits under this rule, the Control Officer shall review the amount of previously issued certified credits remain surplus under this rule and shall revise the amount if necessary to maintain



surplus integrity. Any certified credits proposed to be used where the reductions in qualifying emissions were not implemented at the time of MERC application shall only be used if the reductions will be implemented before the new stationary source or modification using the credits begins operation of the new source or modification.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 FEES

401.1 A fee may be charged for the following:

- a. **Preliminary ERC Calculations Review:** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When review of ERC calculations is complete the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing ERC calculations and the balance due.
- b. **ERC Application Processing (for Certification):**
 - (1) The minimum fee due shall be an application fee of \$200.
 - (2) For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When application processing is completed and final costs are greater than the combined fees submitted under §§ 401.1a and b(1) of this rule, the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of evaluating and acting upon the application, minus the combined fees submitted under §§ 401.1a and b(1) of this rule, and the balance due.
- c. **Permit:** Permit fees applicable to either §§ 301.1a or b of this rule, as set forth in Rule 280 (Fees) of these rules.

401.2 **Fee adjustments:** The Control Officer shall adjust the hourly rate in §§ 401.1a & b every January 1, to the nearest 10 cents per hour, beginning on January 1, 2018. The Control Officer will multiply \$149.20 by the Consumer Price Index (CPI) for the most recent year and then divide by the CPI for the year 2016.

SECTION 500 – MONITORING AND RECORDS

501 **RECORDKEEPING AND RECORDS RETENTION:** Records and data required by this section shall be:

- 501.1 Kept on site at all times by the permitted generator in a consistent and complete manner, in either electronic or paper format.
- 501.2 Made available upon request and without delay to the Control Officer or his designee.
- 501.3 Unless otherwise specified, maintained for five (5) years after the record is created.

502 **INSPECTIONS:** A permitted generator shall provide the Control Officer with access to the premises for the purpose of conducting an inspection to verify compliance with this rule. An inspection may include, but is not limited to, a review of records and reports.



- 503 **MERC GENERATION MONITORING:** The permitted generator shall monitor parameters used to quantify certified credits beginning no later than issuance of the certified credits. All monitoring equipment shall be operated and maintained in accordance with the manufacturer's written instructions. At a minimum, the permitted generator shall monitor the following for each replaced or retrofitted vehicle used for obtaining certified credits:
- 503.1 Vehicle miles traveled (VMT) as determined by GPS tracking;
 - 503.2 Percent of VMT within the nonattainment area as determined by GPS tracking; and
 - 503.3 Any other parameter used to make the certified credits quantifiable, such as idling speed, idling emissions, or fuel use rate.
- 504 **MERC GENERATION RECORDS:** A permitted generator shall maintain the following records of its captive fleet:
- 504.1 **Certified Credit Records:** All records supporting the application for which certified credits were granted, including but not limited to: documentation of when a vehicle was retrofitted or replaced, documentation that the baseline vehicle or baseline vehicle engine was disposed of or removed from the nonattainment area, VMT for each baseline vehicle used to generate credits, and percent of VMT within the nonattainment area for each baseline vehicle used to generate credits. The records shall be maintained for at least 5 years following the use of the certified credits, regardless of any defenses under any federal or state statute of limitations.
 - 504.2 **Captive Fleet Inventory Records:** A detailed inventory of all fleet vehicles in the captive fleet that shall include all of the following and shall be reviewed and updated on a monthly basis:
 - a. For each fleet vehicle provide:
 - (1) The vehicle manufacturer.
 - (2) The model number.
 - (3) The model year.
 - (4) A description of the vehicle including serial number.
 - (5) Fuel type.
 - (6) Whether it was used to generate certified credits.
 - b. The date each vehicle was:
 - (1) Added to the inventory.
 - (2) Removed from the inventory.
 - c. The total number of vehicles in the captive fleet.
 - d. For each vehicle added to the inventory:
 - (1) Identify the vehicle removed in its place or whether the total number of vehicles in the captive fleet increased.
 - (2) If the vehicle is a replacement, identify whether it is replacing a vehicle that was replaced or retrofitted to generate certified credits.



- (3) If the vehicle is a replacement, identify whether the change resulted in the addition of a vehicle certified to higher, equivalent, or lower emissions standards and the documentation used to make this determination. For replacement or retrofitted vehicles that were used to generate credits the permitted generator must document that the replacement vehicle is certified to equivalent or lower standards than the vehicle or engine used to generate certified credits.
- 504.3 Operational Records:** The following operational records shall be maintained on a monthly basis upon issuance of the certified credits:
- a. **Monthly:** For each replacement or retrofitted vehicle used to generate certified credits, the permitted generator shall record a description of all maintenance and repairs, including the results and any corrective actions performed.
 - b. **Monthly:** For each replacement or retrofitted vehicle in the captive fleet, maintain monthly records of:
 - (1) Calendar month VMT.
 - (2) To date for the calendar year, the percent of VMT within the applicable nonattainment area.
 - (3) Monthly summary of any other monitoring required by Section 503 of this rule.
- 504.4 Vehicle Retrofit Records:** The permitted generator shall maintain record for each retrofitted vehicle that was used to generate certified credits that demonstrates exemption from tampering prohibition of clean alternative fuel conversions by compliance with 40 CFR 85, Subpart F. This includes the applicable valid certificate of conformity or notification submission to the EPA.
- 504.5 Replacement of Captive Fleet Vehicles:** For any captive fleet vehicle that was not used to generate certified credits and that is replaced with a vehicle certified to higher emissions standards than the vehicle it replaced, the permitted generator shall notify the Control Officer by the end of the month following the vehicle replacement. The Control Officer shall review permitted generator records and the captive fleet vehicle inventory used in the application for certified credits and determine whether the emission reductions resulting from certified credits remain permanent. The permitted generator and the Administrator shall be notified of the Control Officer's determination and the actions, if any, that must be taken to ensure the certified credits remain valid.
- 504.6 Annual Report:** Upon issuance of certified credits, and within 30 days after December 31 of each calendar year, the permitted generator shall submit an annual report to the Control Officer summarizing the captive fleet's operation and compliance with § 302.2(b) for the previous calendar year and provide: attest that any replaced baseline vehicle is not a part of any other captive fleet owned or operated by the permitted generator in Maricopa County and how this was verified, the current captive fleet inventory as specified by § 504.2, total annual VMT for each vehicle used to generate certified credits, and percentage of VMT each vehicle used to generate certified credits accrued in the applicable nonattainment area that calendar year.



APPENDIX A
CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH VEHICLE REPLACEMENT OR RETROFIT

- A.** Baseline Emissions = Annual Utilization (miles/year) × Baseline Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant emitted.
 2. Annual Utilization is the aggregate number of annual average miles (using historical data for the two-year period selected according to the definition of baseline emissions in this rule) of actual vehicle utilization within the applicable nonattainment area.
 3. Baseline Pollutant Emissions Factor is determined using the baseline vehicle fuel type, baseline vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the United States Environmental Protection Agency's (EPA) Motor Vehicle Emission Simulator (MOVES) software. Baseline vehicle engine model year corresponds to the calendar year in which the emission reductions are generated by replacing or retrofitting the baseline vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- B.** Post Project Emissions = Annual Utilization (miles/year) × Post-Project Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant.
 2. Annual Utilization is the value from A.2.
 3. Post Project Pollutant Emissions Factor is determined using the replacement or retrofit vehicle fuel type, replacement or retrofit vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the EPA's MOVES software. For a retrofitted vehicle, the vehicle engine model year corresponds to the year the emission reductions are generated by retrofitting the baseline vehicle. For a replacement vehicle, the replacement vehicle engine model year corresponds to the model year of the replacement vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- C.** The amount of eligible emission reduction credits for each vehicle is determined by subtracting Post Project Emissions from Baseline Emissions.
- D.** **High Pollution Area Incentive:** The permitted generator may be eligible to use an earlier baseline vehicle engine model year to determine the amount of eligible emission reduction credits determined in Section C of this Appendix if the permitted generator can demonstrate the annual utilization of the vehicle occurs at least 75% of VMT within areas of high pollution as identified through EPA's EJScreen (Environmental Justice Screening and Mapping Tool) Environmental Justice Indexes. An area of high pollution shall be considered any area in the 90th national percentile or greater for the credited pollutant or applicable precursors. To be eligible, a gasoline baseline vehicle engine must be no more than 7 years older than the replaced or retrofitted vehicle engine or a diesel baseline vehicle engine must be no more than 11 years older than the replaced or retrofitted vehicle engine. Once determined to be eligible, vehicles may use a baseline vehicle engine model year that corresponds to the model year of the baseline vehicle.

Commented [MC4]: Innovative and a nice add. I am not sure whether tracking systems can easily take into account the EJ areas, especially if they change over time. WM does not think they would be capable of tracking this.



**Maricopa County
Air Quality Department
Division Name
Maricopa.gov/AQ**

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 10: Relevant Arizona Revised Statutes

49-112. County regulation; standards

- A. When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:
 - 1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
 - 2. There is credible evidence that the rule, ordinance or regulation is either:
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulations.
 - 3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.
- B. When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.
- C. A county that adopts rules, ordinances or regulations pursuant to subsection B of this section and that at any time cannot comply with subsection B of this section shall prepare and file a notice of noncompliance with the director. The county shall post a copy of the notice of noncompliance on the county's website with a date stamp of the date of posting. If the county does not comply with subsection B of this section within one year after posting of the notice on the county's website, the director shall provide written notice to and assert regulatory jurisdiction over those persons and entities subject to the affected county rules, ordinances or regulations.
- D. Except as provided in chapter 3, article 3 of this title, before adopting or enforcing any rule, ordinance or regulation pursuant to subsection A or B of this section, the county shall comply with the following requirements:
 - 1. Prepare a notice of proposed rulemaking to include the proposed rule, ordinance or regulation. This notice shall demonstrate evidence of compliance with subsection A or B of this section. The notice shall include the name, address and phone number of a person who can answer questions about the proposed rule, ordinance or regulation and accept any

written requests for the county to conduct an oral proceeding. The county shall post the notice on the county's website with a date stamp of the date of posting. The county shall publish the availability of the notice of the proposed rule, ordinance or regulation in a newspaper of general circulation in the county. If there is no newspaper of general circulation in the county, the county shall publish the notice in a newspaper of general circulation in an adjoining county. If requested by the public, the county shall make available a paper copy of the notice at a reasonable cost.

2. For at least thirty days after the posting of the notice of the proposed rule, ordinance or regulation, afford persons the opportunity to submit in writing comments, statements, arguments, data and views on the proposed rule, ordinance or regulation.
 3. Respond in writing to the comments submitted pursuant to paragraph 2 of this subsection and post the county's response on the county's website. If requested by the public, the county shall make paper copies of its comments available at a reasonable cost.
 4. Schedule a public hearing on the proposed rule, ordinance or regulation if a written request for an oral proceeding is submitted to the county during the thirty-day comment period. The county shall post the notice of oral proceeding on a proposed rule, ordinance or regulation on the county's website. The county shall post the notice of oral proceeding at least twenty days before the date of the oral proceeding. The county shall publish notice of any public hearing required pursuant to this paragraph in any newspaper as prescribed by this title or county ordinance. The county shall select a time and location for the public hearing that affords a reasonable opportunity for the public to participate.
- E. A county is not required to comply with subsection D, paragraphs 2, 3 and 4 of this section before it adopts or enforces a rule, ordinance or regulation if the rule, ordinance or regulation only incorporates by reference an existing state or federal rule or law that provides greater regulatory flexibility for regulated parties and otherwise satisfies the requirements prescribed in subsection B of this section.
- F. Until June 30, 1995, a person may file with the clerk of the board of supervisors for that county a petition challenging a county rule, ordinance or regulation adopted before July 15, 1994 for compliance with the criteria set forth in subsection A or B of this section. The petition shall contain the grounds for challenging the specific county rule, ordinance or regulation. Within one year after the petition is filed, the board of supervisors shall review the challenged rule, ordinance or regulation and make a written demonstration of compliance with the criteria set forth in subsection A or B of this section and challenged in the petition. Any rules, ordinances or regulations that have been challenged and for which the board of supervisors has not made the written demonstration within one year after the filing of the petition required by this section become unenforceable as of that date. If a county has already made a written demonstration under section 49-479, subsection C, for a rule, ordinance or regulation, the person filing the petition shall state the specific grounds in the petition why that demonstration does not meet the requirements of this section.
- G. A rule, ordinance or regulation adopted pursuant to subsection A of this section may not be invalidated subsequent to its adoption on the grounds that the economic feasibility analysis is insufficient or inaccurate if a county makes a good faith effort to comply with the economic feasibility requirement of subsection A, paragraph 2, subdivision (a), of this

section and has explained in the written statement, made public pursuant to subsection D of this section, the methodology used to satisfy the economic feasibility requirement.

H. This section shall not apply to any rule, ordinance or regulation adopted by a county pursuant to:

1. Title 36 for which the state has similar statutory or rule making authority in this title.
2. Section 49-391.
3. Chapter 3, article 8 of this title.
4. Chapter 4, article 3 of this title and section 49-765.
5. Nonsubstantive rules relating to the application process that have a de minimis economic effect on regulated parties.

49-471.09. County rule or ordinance making record

- A. A control officer shall maintain for public inspection an archive of a rule or ordinance making record for each proposed rule or ordinance for which a notice is posted on the county's website and each final rule or ordinance posted on the county's website.
- B. The county archive of a rule or ordinance making record shall contain all of the following:
 1. Copies of all postings on the county's website with respect to the rule or ordinance.
 2. All written petitions, requests, submissions and comments received by the county and all other written materials considered or prepared by a control officer in connection with the rule or ordinance.
 3. Any official transcript of oral presentations made in the proceeding on which the rule or ordinance is based, and any tape recording or stenographic record of those presentations, and any memorandum summarizing the contents of those presentations.
 4. A copy of any materials, documents or meeting minutes submitted to the board of supervisors.
 5. A copy of the final rule or ordinance adopted by the board of supervisors and the preamble, concise explanatory statement and response to comments.

49-474. County control boards

The board of supervisors of each county may authorize the board of health or health department of their respective counties in cooperation with the department of environmental quality to:

1. Study the problem of air pollution in the county.
2. Study possible effects on adjoining counties.
3. Cooperate with chambers of commerce, industry, agriculture, public officials and all other interested persons or organizations.

4. Hold public hearings if in their discretion such action is necessary.
5. The board of supervisors by resolution may establish an air pollution control district.

49-479. Rules; hearing

- A. The board of supervisors shall adopt such rules as it determines are necessary and feasible to control the release into the atmosphere of air contaminants originating within the territorial limits of the county or multi-county air quality control region in order to control air pollution, which rules, except as provided in subsection C shall contain standards at least equal to or more restrictive than those adopted by the director. In fixing such standards, the board or region shall give consideration but shall not be limited to:
 1. The latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on health and welfare which may be expected from the presence of an air pollution agent, or combination of agents in the ambient air, in varying quantities.
 2. Atmosphere conditions and the types of air pollution agent or agents which, when present in the atmosphere, may interact with another agent or agents to produce an adverse effect on public health and welfare.
 3. Securing, to the greatest degree practicable, the enjoyment of the natural attractions of the state and the comfort and convenience of the inhabitants.
- B. No rule may be enacted or amended except after the board of supervisors first holds a public hearing after twenty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.
- C. A county may adopt or amend a rule, emission standard, or standard of performance that is as stringent or more stringent than a rule, emission standard or standard of performance for similar sources adopted by the director only if the county complies with the applicable provisions of section 49-112.
- D. All rules enacted pursuant to this section shall be made available to the public at a reasonable charge upon request.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 11: Rule 205

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

**RULE 205
EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
REDUCTION CREDITS**

INDEX

SECTION 100 – GENERAL

- 101 PURPOSE
- 102 APPLICABILITY

SECTION 200 – DEFINITIONS

- 201 ACCOUNT HOLDER
- 202 ARIZONA EMISSIONS BANK
- 203 BASELINE EMISSIONS
- 204 BASELINE VEHICLE
- 205 CAPTIVE FLEET
- 206 CERTIFIED EMISSION REDUCTION CREDIT
- 207 EMISSION REDUCTION CREDIT (ERC) or CREDIT
- 208 ENFORCEABLE
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC)
- 210 OFFSETS
- 211 PERIODIC EMISSIONS INVENTORY
- 212 PERMANENT
- 213 PERMITTED GENERATOR
- 214 QUALIFYING EMISSIONS
- 215 QUANTIFIABLE
- 216 REAL
- 217 REPLACEMENT VEHICLE
- 218 RETROFIT VEHICLE
- 219 SURPLUS

SECTION 300 – STANDARDS

- 301 CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION
REDUCTIONS BY A PERMITTED GENERATOR

- 302 MERC GENERATION
- 303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK
- 304 USE OF THE CERTIFIED CREDITS

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- 401 FEES

SECTION 500 – MONITORING AND RECORDS

- 501 RECORDKEEPING AND RECORDS RETENTION
- 502 INSPECTIONS
- 503 MERC GENERATION MONITORING
- 504 MERC GENERATION RECORDS

APPENDIX TO RULE 205

APPENDIX A: CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH VEHICLE REPLACEMENT OR RETROFIT

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES**

RULE 205

**EMISSION OFFSETS GENERATED BY VOLUNTARY MOBILE SOURCE EMISSION
REDUCTION CREDITS**

SECTION 100 – GENERAL

- 101 PURPOSE:** To facilitate the creation and trading of mobile source emission reduction credits (MERCs) for use as offsets by a stationary source under Rule 240 (Federal Major New Source Review (NSR)) of these rules by providing a process for:
- 101.1** Generating mobile source emission reduction credits for reductions achieved by permitted generators.
 - 101.2** Certifying credits as meeting offset requirements in advance of the certified credits' use for that purpose.
 - 101.3** Registering certified credits generated under this rule in the Arizona Emissions Bank.
 - 101.4** Using certified credits generated under this rule registered in the Arizona Emissions Bank.
 - 101.5** Using certified credits generated under this rule not registered in the Arizona Emissions Bank.
- 102 APPLICABILITY:** The provisions of this rule apply to the following persons and entities:
- 102.1** The owner or operator of a captive fleet of vehicles who holds or intends to obtain a Maricopa County Air Quality Department Stationary Source Permit and has achieved or will achieve reductions in qualifying emissions in compliance with this rule.
 - 102.2** The owner or operator of a permitted stationary source that intends to use certified credits as offsets.

SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.

- 201 ACCOUNT HOLDER:** Any person or entity who has opened an account with the Arizona Emissions Bank.
- 202 ARIZONA EMISSIONS BANK:** The system created by the Arizona Department of Environmental Quality (ADEQ) to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.
- 203 BASELINE EMISSIONS:** The average rate at which a baseline vehicle would have actually emitted the pollutant in absence of generating emission reductions during the two

preceding calendar years, or two calendar years more representative of normal emissions within the 5-year period immediately before the reduction in qualifying emissions.

- 204 BASELINE VEHICLE:** Captive fleet vehicle that has been replaced or retrofitted for a reduction in qualifying emissions.
- 205 CAPTIVE FLEET:** A fleet of vehicles where all the vehicles in the fleet are identifiable, the locations where they are being operated can be tracked and recorded, their base of operation is in a nonattainment area within the jurisdiction of MCAQD, and which can serve as a permanent source of emission reductions when a vehicle is replaced or retrofitted. The captive fleet can include on-road or off-road vehicles.
- 206 CERTIFIED EMISSION REDUCTION CREDIT:** An emission reduction credit that has met the criteria in this rule for certification and has been issued by the Maricopa County Air Quality Department (MCAQD). Certified credits do not have property rights associated with them.
- 207 EMISSION REDUCTION CREDIT (ERC):** A reduction in qualifying emissions, expressed in tons per year as rounded down to the nearest one tenth (1/10) of a ton, for which a permitted generator has submitted an application pursuant to this rule.
- 208 ENFORCEABLE:** Specific measures for assessing compliance with an emissions limitation, control, or other requirement established in a permit or in this rule in a manner that allows compliance to be readily determined by, but not limited to, an inspection of records and reports.
- 209 MOBILE SOURCE EMISSION REDUCTION CREDIT (MERC):** An ERC generated from a captive fleet vehicle.
- 210 OFFSETS:** Reductions in emissions required under Rule 240 (Federal Major New Source Review (NSR)) of these rules.
- 211 PERIODIC EMISSIONS INVENTORY:** In accordance with section 172(c)(3) of the Clean Air Act, the base year emissions inventory within the Maricopa County nonattainment area for the relevant conventional air pollutant or the most recent periodic update.
- 212 PERMANENT:** A reduction in qualifying emissions used to offset emissions increases that are enduring for the remaining life of the corresponding emissions increase.
- 213 PERMITTED GENERATOR:** The owner or operator of a captive fleet of vehicles that has or intends to obtain a Maricopa County Air Quality Permit that has made or proposes to make reductions in qualifying emissions.
- 214 QUALIFYING EMISSIONS:** Emissions of any conventional air pollutant quantified in the periodic emissions inventory, other than elemental lead, or any precursor of a conventional air pollutant from any activity when generated within the Maricopa County nonattainment area associated with the conventional air pollutant.

- 215 **QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and addressed in terms of character. Quantification may be based on emission factors, vehicle emissions testing, monitored values, operating rates, and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
- 216 **REAL:** A reduction in actual emissions released to the air resulting from a physical change or change to the method of operations by a permitted generator.
- 217 **REPLACEMENT VEHICLE:** Vehicle used to generate certified credits that is certified to an emission limit less than the baseline vehicle it replaces and is in compliance with the most recent applicable federal emission standard at the time of replacement.
- 218 **RETROFIT VEHICLE:** Captive fleet vehicle that has or will have any alteration, including components, design, and instructions to perform this alteration, of the vehicle or engine, its fueling system, or the integration of these systems, that allows the vehicle or engine to operate on a fuel or power source different from the fuel or power source for which the vehicle or engine was originally certified; and that is designed, constructed, and applied in compliance with the requirements in 40 CFR 85 and 86.
- 219 **SURPLUS:** A reduction in qualifying emissions below the emission limitations and standards used to comply with any otherwise federally applicable requirements and is not relied upon to meet any requirements in the State Implementation Plan (SIP).

SECTION 300 – STANDARDS

301 **CERTIFICATION OF CREDITS FOR MOBILE SOURCE EMISSION REDUCTIONS BY A PERMITTED GENERATOR:**

301.1 **Application:**

- a. The permitted generator may apply for certified credits for reductions in qualifying emissions for a vehicle replacement or retrofit that will comply with the applicable requirements in § 302 (MERC Generation) of this rule and by filing either of the following with the Control Officer in accordance with Rule 210 (Title V Permit Provisions) or Rule 220 (Non-Title V Permit Provisions) of these rules:
 - (1) An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable; or
 - (2) An application for a permit seeking the imposition of conditions to make the reductions in qualifying emissions permanent and enforceable.
- b. An application for certified credits shall be filed with the Control Officer on the form prescribed by the MCAQD and shall include:
 - (1) Information on the identity, type, ownership, and location of the permitted generator;

- (2) Inventory of the captive fleet, as specified in § 504.2, for which a replaced or retrofitted vehicle resulted or will result in reductions in qualifying emissions;
- (3) A description of the vehicle replacement or retrofits that have resulted or will result in surplus reductions in qualifying emissions, as well as a description of how the reductions in qualifying emissions will be permanent;
- (4) Information on the methodology for quantifying the surplus reductions in qualifying emissions for each pollutant subject to the application, including emissions calculations;
- (5) Information on the proper removal or disposal of baseline vehicles if the reductions in qualifying emissions were accomplished through vehicle replacement;
- (6) Information on the conversion system used if the reductions in qualifying emissions will be accomplished through vehicle retrofit;
- (7) Other information or records necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, federally enforceable, and real;
- (8) The actual date or anticipated date of the reductions in qualifying emissions, as applicable; and
- (9) A signed statement by a responsible official, as defined in Rule 100 (General Provisions and Definitions) of these rules, verifying the truthfulness and accuracy of all information provided in the application.

301.2 Action on Application: The Control Officer shall review the application for certified credits and:

- a. Evaluate whether the requested MERCs will be real, quantifiable, federally enforceable, permanent, and surplus and determine whether the MERCs meet the requirements of § 302 for generating MERCs.
- b. Provide public participation on the Control Officer's proposed determination to issue certified credits and a permit or permit revision per the provisions in Section 407 of Rule 220 of these rules. This requirement applies to all proposed actions to issue certified credits according to this rule. The proposed determination shall include the proposed permit or permit revision and the Control Officer's underlying analysis for proposing to certify the MERCs.
- c. If the Control Officer determines the requested credits meet the requirements of this rule and should be certified then the Control Officer shall:
 - (1) Issue either a permit or permit revision that incorporates the requirements of § 302.2, and any other necessary requirements to make the reductions in qualifying emissions permanent and enforceable.
 - (2) Issue one certified credit for each ton, as rounded down to the nearest one tenth (1/10) of a ton, per year of reduction that qualifies as permanent, quantifiable, surplus, federally enforceable, and real.

(3) Provide the applicant with a certificate representing the number of certified credits issued. The certificate shall specify that the credits were certified under this rule and shall specify whether the reductions in qualifying emissions have been implemented or the date by which the reductions are required to be implemented.

d. If the Control Officer determines that none of the requested MERCs should be certified, then the applicant will be notified, and no credits will be issued and no permit or permit revision will be issued.

301.3 Registration of Certified Credits in the Arizona Emissions Bank: Certified credits may be registered in the Arizona Emissions Bank but registration is not required. See § 303 (Registration of Certified Credits in the Arizona Emissions Bank) of this rule for procedures regarding registration of certified credits in the Arizona Emissions Bank.

302 MERC GENERATION: A permitted generator that plans to replace or retrofit all or part of their captive fleet to generate a reduction in qualifying emissions:

302.1 May apply to certify MERCs by meeting the following requirements:

a. **Location:** Demonstrate that the captive fleet of vehicles used to generate credits shall be based and operated within a nonattainment area within the jurisdiction of the MCAQD. Certified credits may only be granted for those reductions generated while operating in the nonattainment area. A baseline vehicles operation inside and outside the nonattainment area must be quantifiable.

b. **Quantification of Baseline Emissions:** The permitted generator shall quantify baseline emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.

c. **Quantification of Emission Reductions:**

(1) The permitted generator shall quantify the post project emissions for each vehicle within the captive fleet that will be replaced or retrofitted following the calculation methodology in Appendix A (Calculations for Determining Emission Reductions from Each Vehicle Replacement or Retrofit) of this rule.

(2) Calculations shall only include surplus reductions and shall not include emission reductions created or used under any other emissions trading program, emission reductions used to satisfy the State Implementation Plan including transportation conformity requirements, or any emissions reductions pursuant to a federal consent decree, or state and local settlements.

d. **Alternative Calculation Methodology:** A permitted generator may use an alternative calculation methodology to quantify emission reductions upon approval from the Control Officer and the Administrator. All alternative calculation methodologies shall be submitted to the Administrator after completion of the public participation process in § 301.2, and shall include any

public comments received and the Control Officer's response to the public comments. The Administrator shall be provided 60 days to review the submittal. Written approval from the Administrator is required prior to using an alternative calculation methodology.

- 302.2** Shall comply with all of the following operating, maintenance, monitoring, removal/disposal, replacement, and recordkeeping requirements:
- a. Operation and Maintenance:** The permitted generator shall operate and maintain the replacement or retrofitted vehicles in accordance with the manufacturer's written instructions or the maintenance schedule provided by the manufacturer's authorized service provider.
 - b. Monitoring of Captive Fleet:** The permitted generator shall monitor the replacement or retrofitted vehicles in the captive fleet used to generate credits as specified in § 503 to ensure the replaced or retrofitted vehicles continue to generate permanent emission reductions as represented in the application in § 301.1(b)(3).
 - c. Removal/Disposal of Replaced Baseline Vehicles:** The permitted generator shall permanently remove any baseline vehicles that were replaced from the applicable nonattainment area or render the baseline vehicles permanently disabled and dispose of in a manner that complies with all applicable local, state, and federal laws. The permitted generator shall maintain documentation demonstrating proper removal or disposal of the baseline vehicles. To demonstrate a baseline vehicle was removed from the nonattainment area, the documentation shall include a bill of sale, vehicle registration, or other transfer documentation demonstrating the vehicle has been removed greater than 200 miles away from all Maricopa County nonattainment areas.
 - d. Subsequent Vehicle Replacements:** The replacement or retrofitted vehicles that were used to acquire certified credits shall only be subsequently replaced with vehicles certified to an emission limit equivalent to or less than the replacement or retrofitted vehicle used to acquire certified credits and shall comply with the most recent applicable federal emission standard. This replacement requirement shall continue for 20 years from the issuance date of the certified credits. The permitted generator shall further ensure that any replaced baseline vehicle is not operated in any other captive fleet owned or operated by the permitted generator in the applicable Maricopa County nonattainment area.
 - e. Vehicle Retrofit:** The permitted generator shall ensure the retrofit vehicle used for generating certified credits satisfies the exemption from tampering prohibition of clean alternative fuel conversions through compliance with 40 CFR 85, Subpart F, and a valid corresponding certificate of conformity or notification submission to the EPA.
 - f. Timing:** The permitted generator shall demonstrate vehicle replacements or retrofits and removal/disposal of baseline vehicles occurred prior to the application for certified credits or shall meet an enforceable timeline established

in the permit or permit revision required by § 301.2(c)(1) that specifies how and by when this demonstration will be met.

g. Monitoring and Recordkeeping: Upon issuance of a permit or permit revision under this rule, a permitted generator is responsible for monitoring and recordkeeping as required in:

- (1) Section 501 (Recordkeeping and Records Retention);
- (2) Section 502 (Inspections);
- (3) Section 503 (MERC Generation Monitoring); and
- (4) Section 504 (MERC Generation Records).

303 REGISTRATION OF CERTIFIED CREDITS IN THE ARIZONA EMISSIONS BANK: The permitted generator may register certified credits with the Arizona Emissions Bank. To register a certified credit:

303.1 Owner or Operator: The permitted generator shall:

- a. Indicate on the MCAQD emission reduction credit application their plan to register the certified credits in the Arizona Emission Bank; and
- b. Open an Arizona Emissions Bank account per A.A.C. R18-2-1206.A.

303.2 Control Officer: The Control Officer shall notify the ADEQ of the number of certified credits issued to the permitted generator on a form prescribed by the ADEQ.

304 USE OF THE CERTIFIED CREDITS:

304.1 Certified Credits Registered in the Arizona Emissions Bank:

- a. An account holder who intends to use the certified credits under this rule held in its account as offsets shall file an application to use the certified credits on the form prescribed by the ADEQ.
- b. On approval of the application by the ADEQ, the Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the user of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and

- (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
- c. The Control Officer shall provide notice to the ADEQ of the final action on the stationary source's application for a permit or for a permit revision and of any changes in the number of certified credits.
- d. Reductions in qualifying emissions reflected in the number of certified credits shall be implemented before actual operation of the new stationary source or modification begins.

304.2 Certified Credits Not Registered in the Arizona Emissions Bank:

- a. The owner or operator of a stationary source who intends to use certified credits that are not registered in the Arizona Emissions Bank as offsets shall:
 - (1) Notify the MCAQD of the intention to use the certified credits as an offset to meet the requirements of Rule 240 (Federal Major New Source Review) of these rules; and
 - (2) Submit the certificate of issued certified credits to the MCAQD in conjunction with a stationary source permit application or permit revision.
- b. The Control Officer shall review the certified credits under Section 304 of this rule and either:
 - (1) Approve the use of the certified credits as offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Notify the owner or operator of the number of certified credits that may be included in the permit or permit revision application of the stationary source; and
 - (b) If there are any remaining available certified credits, the Control Officer will reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.
 - (2) Deny the use of the certified credits for offsets under Rule 240 (Federal Major New Source Review) of these rules and:
 - (a) Provide written notification of the reason for denying the use of the certified credits as offsets; and
 - (b) If there are any remaining available certified credits, the Control Officer, as applicable, will return the certificate to the owner or operator of the stationary source or reissue the certificate with a sequential revision number. This will provide documentation on the availability of the remaining certified credits.

304.3 First In, First Out Accounting: The owner or operator of the stationary source using certified credits must use the oldest credits in their possession first.

304.4 Review of MERC Integrity: At the time of use of certified credits under this rule, the Control Officer shall review the amount of previously issued certified credits remain surplus under this rule and shall revise the amount if necessary to maintain surplus integrity. Any certified credits proposed to be used where the reductions in qualifying emissions were not implemented at the time of MERC application shall only be used if the reductions will be implemented before the new stationary source or modification using the credits begins operation of the new source or modification.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 FEES

401.1 A fee may be charged for the following:

- a. Preliminary ERC Calculations Review:** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When review of ERC calculations is complete the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing ERC calculations and the balance due.
- b. ERC Application Processing (for Certification):**
 - (1)** The minimum fee due shall be an application fee of \$200.
 - (2)** For all time required by the Control Officer to review the ERC calculations, at a rate of \$149.20 per hour and adjusted annually under § 401.2 of this rule. When application processing is completed and final costs are greater than the combined fees under §§ 401.1a and b(1) of this rule, the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of evaluating and acting upon the application, minus the fee submitted under § 401.1a of this rule, and the balance due.
- c. Permit:** Permit fees applicable to either §§ 301.1a or b of this rule, as set forth in Rule 280 (Fees) of these rules.

401.2 Fee adjustments: The Control Officer shall adjust the hourly rate in §§ 401.1a & b every January 1, to the nearest 10 cents per hour, beginning on January 1, 2018. The Control Officer will multiply \$149.20 by the Consumer Price Index (CPI) for the most recent year and then divide by the CPI for the year 2016.

SECTION 500 – MONITORING AND RECORDS

501 RECORDKEEPING AND RECORDS RETENTION: Records and data required by this section shall be:

- 501.1** Kept on site at all times by the permitted generator in a consistent and complete manner, in either electronic or paper format.
- 501.2** Upon verbal or written request by the Control Officer, the log or the records and supporting documentation shall be provided as soon as possible but no later than 48 hours after the request.
- 501.3** Unless otherwise specified, maintained for five (5) years after the record is created.

502 INSPECTIONS: A permitted generator shall provide the Control Officer with access to the premises for the purpose of conducting an inspection to verify compliance with this rule. An inspection may include, but is not limited to, a review of records and reports.

503 MERC GENERATION MONITORING: The permitted generator shall monitor parameters used to quantify certified credits beginning no later than issuance of the certified credits. All monitoring equipment shall be operated and maintained in accordance with the manufacturer's written instructions. At a minimum, the permitted generator shall monitor the following for each replaced or retrofitted vehicle used for obtaining certified credits:

503.1 Vehicle miles traveled (VMT) as determined by GPS tracking;

503.2 Percent of VMT within the nonattainment area as determined by GPS tracking; and

503.3 Any other parameter used to make the certified credits quantifiable, such as idling speed, idling emissions, or fuel use rate.

504 MERC GENERATION RECORDS: A permitted generator shall maintain the following records of each replacement or retrofitted vehicle in its captive fleet:

504.1 Certified Credit Records: All records supporting the application for which certified credits were granted, including but not limited to: documentation of when a vehicle was retrofitted or replaced, documentation that the baseline vehicle or baseline vehicle engine was disposed of or removed from the nonattainment area, VMT for each baseline vehicle used to generate credits, and percent of VMT within the nonattainment area for each baseline vehicle used to generate credits. The records shall be maintained for at least 5 years following the use of the certified credits, regardless of any defenses under any federal or state statute of limitations.

504.2 Replacement or Retrofitted Vehicle Inventory Records: A detailed inventory of each replacement or retrofitted vehicle used to generate certified credits that shall include all of the following and shall be reviewed and updated on a monthly basis:

a. For each fleet vehicle provide:

(1) The vehicle manufacturer.

(2) The model number.

(3) The model year.

(4) A description of the vehicle including serial number.

(5) Fuel type.

b. The date each vehicle was:

(1) Added to the inventory.

(2) Removed from the inventory.

c. For each vehicle added to the inventory:

(1) Identify the vehicle removed in its place.

- (2) The permitted generator must document that the replacement vehicle is certified to equivalent or lower standards than the vehicle or engine used to generate certified credits.

504.3 Operational Records: The following operational records shall be maintained on a monthly basis upon issuance of the certified credits:

- a. **Monthly:** For each replacement or retrofitted vehicle used to generate certified credits, the permitted generator shall record a description of all maintenance and repairs, including the results and any corrective actions performed.
- b. **Monthly:** For each replacement or retrofitted vehicle in the captive fleet, maintain monthly records of:
 - (1) Calendar month VMT.
 - (2) To date for the calendar year, the percent of VMT within the applicable nonattainment area.
 - (3) Monthly summary of any other monitoring required by Section 503 of this rule.

504.4 Vehicle Retrofit Records: The permitted generator shall maintain record for each retrofitted vehicle that was used to generate certified credits that demonstrates exemption from tampering prohibition of clean alternative fuel conversions by compliance with 40 CFR 85, Subpart F. This includes the applicable valid certificate of conformity or notification submission to the EPA.

504.5 Annual Report: Upon issuance of certified credits, and within 60 days after December 31 of each calendar year, the permitted generator shall submit an annual report to the Control Officer summarizing the captive fleet's operation and compliance with § 302.2(b) for the previous calendar year and provide: attest that any replaced baseline vehicle is not a part of any other captive fleet owned or operated by the permitted generator in Maricopa County and how this was verified, the current captive fleet inventory as specified by § 504.2, total annual VMT for each vehicle used to generate certified credits, and percentage of VMT each vehicle used to generate certified credits accrued in the applicable nonattainment area that calendar year.

APPENDIX A
CALCULATIONS FOR DETERMINING EMISSION REDUCTIONS FROM EACH
VEHICLE REPLACEMENT OR RETROFIT

- A.** Baseline Emissions = Annual Utilization (miles/year) × Baseline Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant emitted.
 2. Annual Utilization is the aggregate number of annual average miles (using historical data for the two-year period selected according to the definition of baseline emissions in this rule) of actual vehicle utilization within the applicable nonattainment area.
 3. Baseline Pollutant Emissions Factor is determined using the baseline vehicle fuel type, baseline vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the United States Environmental Protection Agency's (EPA) Motor Vehicle Emission Simulator (MOVES) software. Baseline vehicle engine model year corresponds to the calendar year in which the emission reductions are generated by replacing or retrofitting the baseline vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- B.** Post Project Emissions = Annual Utilization (miles/year) × Post-Project Pollutant Emission Factor (g/mile)
1. Where g is grams of pollutant.
 2. Annual Utilization is the value from A.2.
 3. Post Project Pollutant Emissions Factor is determined using the replacement or retrofit vehicle fuel type, replacement or retrofit vehicle engine model year, and the on-road vehicle emissions factors, in g/mile, in the latest applicable version of the EPA's MOVES software. For a retrofitted vehicle, the vehicle engine model year corresponds to the year the emission reductions are generated by retrofitting the baseline vehicle. For a replacement vehicle, the replacement vehicle engine model year corresponds to the model year of the replacement vehicle.
 4. The above calculations yield g/year. To obtain tons/yr, the regulatory quantity, multiply by 1.1×10^{-6} .
- C.** The amount of eligible emission reduction credits for each vehicle is determined by subtracting Post Project Emissions from Baseline Emissions.
- D. High Pollution Area Incentive:** The permitted generator may be eligible to use an earlier baseline vehicle engine model year to determine the amount of eligible emission reduction credits determined in Section C of this Appendix if the permitted generator can demonstrate the annual utilization of the vehicle occurs at least 75% of VMT within areas of high pollution as identified through EPA's EJScreen (Environmental Justice Screening and Mapping Tool) Environmental Justice Indexes. An area of high pollution shall be considered any area in the 90th national percentile or greater for the credited pollutant or applicable precursors. To be eligible, a gasoline baseline vehicle engine must be no more than 7 years older than the replaced or retrofitted vehicle engine or a diesel baseline vehicle engine must be no more than 11 years older than the replaced or retrofitted vehicle engine. Once determined to be eligible, vehicles may use a baseline vehicle engine model year that corresponds to the model year of the baseline vehicle.

Revision to Arizona's SIP Rule 205 of the MCAPCR

Appendix 12: Letter to EPA Administrator Michael Regan from U.S. Senators Kyrsten Sinema and Mark Kelly

United States Senate

WASHINGTON, DC 20510

May 26, 2022

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Regan,

We are writing to thank the Environmental Protection Agency (EPA) for working with the Maricopa County Air Quality Department to develop flexible rules to modernize the generation of Emission Reductions Credits (ERCs). Having rules in place with options for public and private entities to generate ERCs will provide much-needed certainty for the region's continued economic development, with the benefit of cleaner air.

As you know, the Clean Air Act places an absolute cap on industrial source pollution in non-attainment areas. To maintain a cap on pollution, certain increases in emissions from major industrial sources must be offset by emission reductions from other sources. Companies are required to comply with these offsets through ERCs, which is increasingly difficult as the traditional methods have been exhausted in Maricopa County. This situation is particularly acute with respect to ozone non-attainment, as many of the major industries planning to expand and locate in the County are technology related and require offsets for ozone precursors.

For this reason, Maricopa County developed and submitted Rule 204 to the EPA which would allow for nontraditional sources to generate ERCs, such as electrification of private truck stops or the upgrading of on-site mobile equipment. This rule was submitted over two years ago and is still pending review by the EPA. It is our understanding that Maricopa County has also been working with EPA to develop a rule (draft Rule 205) to authorize the generation of Mobile ERCs that would be obtained by retrofitting diesel or gasoline powered vehicles to electric or lower emitting vehicles.

In a recent letter to Maricopa County, EPA staff indicated that they successfully worked with Intel Corporation to overcome the challenge of identifying offsets for their recent expansion. We are encouraged to hear about EPA's willingness to collaborate with Maricopa County and Intel Corporation to proactively find innovative solutions to generate ERCs. We ask that you continue working with the county on Rule 204 and draft Rule 205 to provide similar opportunities to all companies looking to expand or relocate to Arizona.

Arizona is a growing state that is leading the nation in job development and innovative technologies. We hope that the EPA will continue to work cooperatively with Maricopa County to identify and implement innovative solutions that result in the reduction of ozone pollution while also opening the door to critical economic development and job creation.

United States Senate

WASHINGTON, DC 20510

In accordance with all existing agency rules, regulations, and ethical guidelines, we respectfully ask that you give this request full and fair consideration.

Sincerely,



Kyrsten Sinema
U.S. Senator



Mark Kelly
U.S. Senator



**Maricopa County
Air Quality Department
Planning and Analysis Division
Maricopa.gov/AQ**