

ENVIRONMENTAL PROTECTION AGENCY

[FRL-]

**Status of Motor Vehicle Budgets in Submitted State
Implementation Plan for Transportation Conformity Purposes;
Maricopa County (Phoenix) PM-10 Nonattainment Area, Arizona
Notice of Withdrawal of Adequacy of Motor Vehicle Emissions
Budget**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of adequacy.

SUMMARY: EPA is announcing that it has withdrawn its May 30, 2008 adequacy finding of the 2010 particulate matter of ten microns or less (PM-10) motor vehicle emission budget (MVEB) for the Maricopa County (Phoenix) Nonattainment Area. EPA has withdrawn the May 30, 2008 adequacy finding because the State of Arizona withdrew the state implementation plan (SIP) submission containing that MVEB. That SIP revision is no longer pending before EPA. On January 31, 2011, EPA sent letters to the Arizona Department of Environmental Quality (ADEQ) and the Maricopa Association of Governments (MAG) withdrawing the May 30, 2008 adequacy finding of the 2010 PM-10 MVEB. EPA's withdrawal of its May 30, 2008 adequacy finding means that the 2010 PM-10 MVEB is no longer available for transportation conformity purposes.

DATES: EPA's withdrawal of the May 30, 2008 adequacy finding was made in letters dated January 31, 2011 from EPA Region 9 to ADEQ and MAG. This withdrawal of the May 30, 2008 adequacy finding was effective on January 31, 2010.

FOR FURTHER INFORMATION CONTACT: Gregory Nudd, U.S. EPA Region 9, 415-947-4107, nudd.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we," "us," and "our" mean U.S. EPA.

I. Background

On June 6, 2007, EPA found that the Maricopa County (Phoenix) nonattainment area failed to attain the 24-hour PM-10 National Ambient Air Quality Standards (NAAQS) by December 31, 2006 (72 FR 31183) as required by the area's most recent approved PM-10 SIP submission. This 2007 finding required the submittal of a new plan meeting the requirements of section 189(d)¹ of the Clean Air Act (CAA), and referred to herein as the "Five Percent Plan," by December 31, 2007.

¹ In the case of a serious PM-10 nonattainment area in which the PM-10 standard is not attained by the applicable attainment date, section 189(d) requires a state to submit a SIP revision that provides for attainment of the PM-10 standard and for an annual reduction in PM-10 and PM-10 precursor emissions within the area of not less than five percent of the amount of such emissions as reported in the most recent inventory prepared for such area.

On December 21, 2007, the Arizona Department of Environmental Quality (ADEQ) submitted the Five Percent Plan intended to address the CAA requirements in section 189(d). This Five Percent Plan included a PM-10 MVEB of 103.3 metric tons per day (mtpd).

On March 13, 2008, we announced receipt of the Five Percent Plan on the Internet and requested public comment on the adequacy of the motor vehicle emissions budget by April 14, 2008. We did not receive any comments during the comment period. During that time we reviewed the MVEB and determined that it met the adequacy criteria in 40 CFR 93.118(e)(4) and (5). We sent a letter to ADEQ on May 30, 2008 stating that the 2010 motor vehicle PM-10 emissions budget for the Maricopa area in the submitted Five Percent Plan was adequate. Our finding was published in the Federal Register on June 16, 2008 (73 FR 34013), effective on July 1, 2008.

EPA proposed to partially approve and partially disapprove the Five Percent Plan on September 9, 2010 (75 FR 54806). On January 25, 2011, prior to any final EPA action, Arizona withdrew the Five Percent Plan from the Agency's consideration.

It is important to note that while EPA had made an adequacy finding for this budget; it was never approved as

a SIP revision by EPA. Hence, there is no SIP rulemaking required to be withdrawn by EPA in regard to this MVEB.

Because the MVEB EPA found adequate on May 30, 2008 was contained in the SIP submission that has been withdrawn by the State, that MVEB can no longer be considered adequate for transportation conformity purposes. EPA, therefore, sent letters on January 31, 2011 to ADEQ and MAG withdrawing the May 30, 2008 adequacy finding. Until a new PM-10 SIP is submitted and the motor vehicle emissions budget(s) in that SIP is found adequate or is approved, conformity determinations will be made using the budget of 59.7 metric tons per day from the Serious Area Plan for PM-10 for the Maricopa County Nonattainment Area which was approved by EPA on July 25, 2002 (67 FR 48718).

EPA has withdrawn its May 30, 2008 adequacy finding without prior notice and comment because adequacy findings are not considered rulemakings subject to the procedural requirements of the Administrative Procedures Act. In addition, EPA does not believe notice through EPA's conformity website is necessary in advance because the withdrawn SIP is no longer pending before EPA for consideration. Consequently, further public comment would be unnecessary and not in the public interest. By sending the January 28, 2011 letters, EPA has also withdrawn all

statements and comments previously made regarding its May 30, 2008 adequacy finding of the MVEBs budgets for transportation conformity purposes.


II. Notice of Withdrawal of MVEB Adequacy Determination

This is an announcement of EPA's withdrawal of its May 30, 2008 adequacy finding. EPA withdrew this adequacy finding in letters dated January 31, 2011 from Deborah Jordan, Director, Air Division, EPA Region 9 to Eric C. Massey, Director, Air Quality Division, ADEQ and Dennis Smith, Executive Director, MAG. The effective date of this withdrawal is January 28, 2011 based on EPA's transportation conformity regulation at 40 CFR 93.118(f)(1)(vi). This announcement will also be made on EPA's Web site:

<http://www.epa.gov/otaq/stateresources/transconf/index.htm>

(once there, click on the "Adequacy Review of SIP Submissions" button and proceed to the Region 9 page for SIP submissions that have already been found adequate or inadequate).

1/31/11
Dated:



Jared Blumenfeld,
Regional Administrator,
Region IX.