



Maricopa County
Air Quality Department

Substantive Policy Statement: SPS-2018-005
Travel Reduction Program-Enforcement

Approved by:

Jerry Geering, Chairman
Travel Reduction Program Regional Task Force

A substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the county and does not impose additional requirements or penalties on regulated parties or include confidential information or rules or ordinances adopted pursuant to Arizona Revised Statutes (A.R.S.) Title 49 (The Environment), Chapter 3 (Air Quality) [A.R.S. §§ 11-1601(8), 49-471(17)]

If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. § 41-1033 for a review of the statement. [A.R.S. § 41-1033]

An applicant for a license subject to A.R.S. Title 11 (Counties), Chapter 11 (County Regulations), Article 1 (General Provisions) may request a county to clarify its interpretation or application of a statute, ordinance, regulation, delegation agreement or authorized substantive policy statement affecting the procurement of that license by providing the county with a written request that satisfies the requirements of A.R.S. § 11-1609(A) [A.R.S. § 11-1609]

I. Purpose

To provide a consistent process for documenting Travel Reduction Program (TRP) violations, notifying alleged violators and initiating enforcement action in a timely and consistent manner.

II. Applicability

This substantive policy statement applies to an employer that is delinquent, i.e. late survey forms, plan or documentation.

III. Definitions

- A. Alternative Mode** - Any mode of commute transportation other than the single-occupancy vehicle.
- B. Approvable Travel Reduction Program** - A plan meeting the requirements of Maricopa County Trip Reduction Ordinance P-7, Section 7C.
- C. Board** - Maricopa County Board of Supervisors
- D. County** - Maricopa County

- E. **Documentation** - Copies of promotions, receipts, registration forms/lists, reports or other information an employer must supply to support the approval/implementation of a plan or annual survey.
- F. **Employer** - A sole proprietor, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, public or private, who employs 50 or more employees working at, or reporting to a single work site. It also includes school districts, community college, trade school, university, or other educational institution having 50 or more employees or students working at, or reporting to a single school site.
- G. **Highest Ranking Local Official (HRLO)** - Individual that is identified by the employer as being authorized to approve and oversee the funding/implementation of that employer's Plan.
- H. **Notice of Violation (NOV)** - Written notification that outlines deficiencies and provides a deadline to correct before the matter is sent to the Task Force for enforcement consideration.
- I. **Order of Abatement by Consent (OAC)** - Agreement between an employer, Air Quality and the Task Force that includes a settlement penalty (payment) to resolve an enforcement action.
- J. **Plan** - See Approvable Travel Reduction Program.
- K. **Request for Documentation (RFD)** - A form issued to an employer that outlines documentation that wasn't initially available but is required to complete the audit.
- L. **Survey** - Commuter questionnaire administered to driving-age students and employees.
- M. **Staff** - County TRP employees (support, supervisory and management) that are assigned to administer the program and support the Task Force.
- N. **Task Force** - Travel Reduction Program Regional Task Force, designated by the Board as the responsible agency to implement and enforce Maricopa County Trip Reduction Ordinance P-7 and established in Maricopa County by Arizona Revised Statutes, Title 49, Chapter 3, Article 8.
- O. **Transportation Coordinator** - A person designated by a major employer or school to serve as the lead person in developing and implementing a Travel Reduction Program.
- P. **Travel Reduction Program (TRP)** - A program that implements a travel reduction plan by an employer or school and is designed to achieve target reductions in the rate of single occupant vehicle/miles traveled (SOV/MT). Reductions can occur through the implementation of various travel reduction measures and/or equivalent emissions reduction measures.

IV. Discussion

Not applicable

V. Statutory Authority

- A.** A.R.S. §§ 49-581 – 49-593 [Title 49-The Environment, Chapter 3-Air Quality, Article 8-Travel Reduction Programs]

VI. Procedures

A. Initial Notifications (Informal/Formal)

1. Staff or section supervisors will notify an employer of a delinquency, i.e., late survey forms, plan or documentation and offer the employer an opportunity to promptly resolve the matter. This notification may be provided via email, fax, U.S. Mail and/or a documented phone call.
2. Employer requests for additional time will be processed by staff or section supervisors. The employer's history and current circumstances should be considered prior to granting a courtesy extension. Any extension request that significantly exceeds 14 days from the original deadline should be reviewed with the section supervisor or program manager.
3. Employers that fail to promptly respond to Staff's outreach or miss an extended deadline should be issued an NOV that will typically outline a one-week deadline to comply. The HRLO should receive a hard-copy of the NOV via certified mail.

B. Second Notification (Task Force Review)

1. Employers that fail to comply by the NOV deadline should be scheduled on the next Task Force agenda for discussion/action and receive a written invitation to that meeting. The HRLO should receive a hard-copy of the invitation via certified mail.
2. Staff will provide the Task Force a report that summarizes the NOV timeline and include a proposed corrective action / deadline.

Recommended deadlines offered by Staff should take into consideration Sections 4D and 4E of Maricopa County Trip Reduction Ordinance P-7, which outlines 10 working days for an employer to address plan development or survey deficiencies. Section 4F of Maricopa County Trip Reduction Ordinance P-7 does not specify a minimum number of days to be offered for "plan implementation" deficiencies, but Staff will typically recommend seven calendar days be offered. The complexity and volume of information needed may justify providing additional time to the employer.

3. The employer will be offered the opportunity to address the Task Force if they have a representative present at the public meeting.
4. The Task Force is expected to accept, amend or deny Staff's recommendation during the public meeting or request that Staff obtain additional information before a decision is made during a future public meeting.

5. All Task Force decisions will be documented in the formal meeting minutes.

C. Third Notification (Task Force Notice)

1. The Task Force Chairman or Assistant Chairman (Program Manager) will provide a written notice to the employer to confirm the ruling made during the formal meeting. This notice will detail the actions necessary to correct the deficiency, identify a deadline and state that the employer may be referred for enforcement action if the deadline is not met. The HRLO should receive a hard-copy of the notice via certified mail.
2. If an employer has a multi-year history of compliance delays, the Task Force may vote to pursue civil penalties regardless of how quickly the employer resolves the NOV.

D. Request for Additional Time and Review

1. Requests to significantly extend the Task Force Notice's deadline will be routed to the Assistant Chairman of the Task Force.

The Assistant Chairman will determine if the employer's request should be denied or if it warrants further discussion by the Task Force, before the matter would be forwarded to the Deputy County Attorney.

E. Enforcement Action

1. If the Task Force Notice deadline has expired and the employer has failed to substantially comply with all parts of the Task Force Notice, the Assistant Chairman will determine if the matter should be forwarded to the Deputy County Attorney or held until the Task Force can review the matter during the next public meeting. The Task Force or the Assistant Chairman of the Task Force may delay this referral if the employer is actively demonstrating a "good faith effort" to resolve all deficiencies.
2. The County Attorney may seek authorization from the Board to take appropriate legal action (A.R.S. § 49-593) to obtain compliance and/or civil penalties.

F. Civil Penalties

1. The Task Force will consider the NOV issuance date as "violation day one" when calculating the total potential (maximum) fine.
2. The Assistant Chairman may issue an OAC to any employer that failed to fully-comply with the deadline listed in the Task Force notification. The HRLO should receive a hard-copy of the OAC via certified mail.
3. The Assistant Chairman will issue an OAC, if the Task Force previously voted to pursue civil penalties based upon the employer's compliance history.
4. The proposed penalty listed in the OAC would be 10% of the maximum fine or the approved plan's incentive budget, whichever is greater. This penalty would be in addition to any expenses incurred by the employer to fully-execute the employer's approved plan.

5. Staff and the Assistant Chairman will update members on settlement activity during the scheduled public meetings.
6. All settlement funds will be deposited in the County's General Fund (A.R.S. § 49-593(D)).

VII. Divisions Affected

- A. Travel Reduction Program

VIII. References

Not applicable

IX. Revision History

Version	Revision Date	Description of Revision
1	01-2002	Initial version; not numbered; titled "Maricopa County Travel Reduction Program Task Force Enforcement Policy"
2	03-2005	
3	08-2009	
4	03-2010	
5	03-2013	
6	03-04-2014	Numbered "PP-2014-001" and titled "Trip Reduction Program-Travel Reduction Program Regional Task Force Enforcement Policy"
7	04-2016	Re-titled "Enforcement"
8	06-19-2018	Re-numbered "SPS-2018-005" and re-titled "Travel Reduction Program-Enforcement"
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