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Congress of the United States
House of Representatives
Washington, DC 20515-0308

December 04, 2024

The Honorable Michael S. Regan
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Regan,

I am writing to express my deep concern regarding the Environmental Protection Agency's (EPA) decision to prematurely reclassify Maricopa County to "serious" nonattainment status for their ozone National Ambient Air Quality Standards (NAAQS), despite the understanding through previous communication that the effective date would not occur prior to May 15, 2025. This decision will negatively impact permitting for major projects in Arizona including the Taiwan Semiconductor Manufacturing Company's (TSMC) Fab 3 plant, which was just awarded over \$6 billion in *CHIPS Act* funding. I strongly urge the EPA to reconsider the change in timeline that threatens to undermine critical economic growth opportunities in the region.

Recently, EPA Region 9 informed Maricopa County Air Quality that they are moving ahead with the expediated redesignation with the aim of issuing a Federal Register Notice by mid-December 2024, resulting in a January 2025 effective date. This decision changes the timeline and has the potential to severely disrupt several key economic development projects in Maricopa County resulting in negative consequences for Arizona, the southwest region, and country.

The reason for this change is not clear to me, but I am concerned that this action was taken based upon the political reality of the upcoming administration change. The law states that there is a 180-day window from August 3, 2024, for redesignation. The expediated timeline is set prior to the 180-day deadline. It is crucial that the EPA and other federal agencies keep a consistent and stable regulatory environment where they do not expediate or change rulings based on the upcoming change in executive power.

By shortening the designation date, there is also a significant risk to *CHIPS Act* funding currently being implemented in Maricopa County. As you are aware, the *CHIPS Act* has very tight deadlines to receive funding and this action taken by the EPA puts that funding at risk, including the \$6 billion that is set for TSMC.

I want to emphasize the potential consequences of this expediated redesignation:

1. Impact on Economic Development:

The early redesignation would trigger the lowering of the emissions threshold from 100

tons to 50 tons for major sources of nitrogen oxides (NOX) and volatile organic compounds (VOC). This shift will immediately complicate the permitting process for major development projects, including TSMC's proposed semiconductor manufacturing facility (Fab 3). For example, TSMC's new plant requires an air quality permit to proceed. The current major source threshold of 100 tons would allow TSMC to proceed without needing to acquire emission reduction credits (ERCs). However, a redesignation to serious nonattainment would impose the 50-ton threshold, which is currently unfeasible due to the shortage of available ERCs, thus potentially delaying or halting this key project.

2. **Risk to Regional Competitiveness:**

The premature redesignation also poses a significant threat to the competitiveness of Maricopa County and the state of Arizona as a whole. The timing of the redesignation will create a regulatory environment that is less conducive to attracting new industries, particularly those in sectors like technology and advanced manufacturing, which are poised to drive long-term economic growth. The negative economic consequences of a sudden and premature redesignation could reverberate across the region, costing jobs and investment.

3. **Challenges with ERC Availability:**

The lack of sufficient ERCs to offset emissions from these critical projects has been a longstanding issue. Maricopa County has made multiple attempts to collaborate with the EPA in an effort to develop rules that would facilitate the generation of ERCs. However, these efforts have not been successful, and the current status of ERC availability leaves no viable solution for industries seeking to comply with stricter air quality standards. This results in uncertainty risks and substantial delays for projects that could otherwise contribute to significant economic growth and job creation in the region.

I urge you to reconsider the proposed expedited schedule for Maricopa County's redesignation. Given the serious implications for economic development and job creation in the region, it is critical that the EPA allows sufficient time for the necessary regulatory adjustments to occur before finalizing the redesignation. **I request adherence to the previously indicated timeline that sets the effective date for no sooner than May 15, 2025.**

I look forward to your response and to the EPA's commitment to working collaboratively with Maricopa County and stakeholders to ensure that the timing of the redesignation does not unduly harm important economic projects. I trust that the Department of Commerce and the EPA will give full consideration to the broader economic impacts of this decision and prioritize the continued growth and prosperity of Maricopa County, Arizona, and our country.

Sincerely,



Debbie Lesko
Member of Congress