

Delegation Agreement #EV24-0013

Between

Arizona Department of Environmental Quality

And

*Apache County, hereinafter, Apache County,
a political subdivision of the State of Arizona,
acting by and through the Apache County
Public Health Services District*

WHEREAS, Arizona Revised Statutes (hereinafter, A.R.S.) § 49-107 authorizes the Director of the Arizona Department of Environmental Quality (hereinafter, ADEQ) to delegate to a local environmental agency, county health department, or public health services district, any functions, powers, and duties which the Director believes can be competently, efficiently, and properly performed by the local environmental agency, county health department or public health services district.

WHEREAS, Apache County Public Health Services District is the local environmental agency, county health department, or public health services district as set forth in A.R.S. § 49-107.

WHEREAS, A.R.S. § 41-1081 sets forth standards for delegation agreements.

WHEREAS, A.R.S. §§ 11-201(A)(3) authorizes the County Board of Supervisors (and by delegation the Local Authority (hereinafter, LA), where the LA is a local environmental agency, county health department or public health services district to enter into contracts as necessary to assist LA in exercising its powers.

WHEREAS, the LA deems that it is in its best interests to accept such delegation.

WHEREAS, this Delegation Agreement, (hereinafter Agreement), includes the base terms and conditions and all applicable appendices, and this Agreement replaces and terminates completely all other past delegation agreements.

THEREFORE, the Director of ADEQ delegates to the Apache County Public Health Services District as LA, and the LA accepts the delegation of the functions, powers and duties and the terms and conditions, as applicable, described in this Agreement on behalf of ADEQ.

A. DELEGATED FUNCTIONS AND DUTIES

The specific Functions and Duties that are delegated to the LA by this Delegation Agreement are identified in the appendices to this Agreement. The terms and conditions under which those Functions and Duties apply are addressed throughout this Delegation Agreement. Terms and conditions in Sections A through U apply unless there are more

specific terms and conditions in the Appendices. If there are any provisions in Sections A through U that are not addressed in the Appendices and are applicable to the LA, such provisions apply. State statutes, rules and ADEQ policies shall be used in implementing the delegated Functions and Duties. The Functions and Duties not specifically authorized by statute to the LA and not specifically delegated to the LA by this Agreement are retained by ADEQ.

B. STANDARDS OF PERFORMANCE

1. **Applicable Conformance:** The standards of performance of the delegated Functions and Duties by the LA shall conform to State statutes, rules, substantive policies, and any directive from an ADEQ Director or Division Director to correct a standard of performance that is determined to be unlawful. The standards of performance are generally the same as those required of ADEQ personnel. All substantive policy documents and resources that pertain to delegated Functions and Duties shall be publicly available and easily accessible to the LA. This Agreement is subject to the provisions of A.R.S. § 49-106, which states that rules adopted by ADEQ shall be observed and enforced throughout this State and that local authorities that have separate authority may adopt ordinances and rules that do not conflict with State law and are equal to or more restrictive than the rules of ADEQ.
2. **Substantive Policy Development:** A substantive policy means a policy that meets the definition of A.R.S. § 41-1001(24). ADEQ's interpretation of the law and rule, and not any policy, is what will be used as the basis for any decision. ADEQ will document interpretations in substantive policy statements that are consistent with interpretations of law and rule. Any policy that is developed may not impose additional requirements on regulated entities. ADEQ shall consult with all LAs when developing the new and/or updated substantive policy statements when those statements are related to delegated Functions and Duties. ADEQ will provide all LAs notice of substantive policy statements at adoption and posting, and will provide training if necessary. ADEQ's notice should be provided to all relevant LA program staff and management.
3. **LA Requests for Clarification:** The LA may contact ADEQ for clarification or guidance on procedural or technical issues. LA may propose that ADEQ adopt a substantive policy. ADEQ shall consult with all LAs for help determining if a substantive policy is necessary. If it is determined that a substantive policy is necessary, ADEQ will follow Section B.2 and will issue a substantive policy as soon as possible, and no later than six months. Until a substantive policy has been adopted and posted to the ADEQ library as outlined in Section B1, the LA may utilize their existing practice or procedure unless ADEQ notifies LA that the practice or procedure is unlawful.
4. **Policy Consistency:** In order to maintain regulatory consistency across the State, the LA shall not develop separate substantive policies related to ADEQ delegated statutes and rules, and may not develop any other practice or procedure that imposes

requirements on regulated entities that do not exist in statute, rule or other county or city ordinance. LA substantive policies, or other practices or procedures related to ADEQ statutes and rules, that exist upon Agreement execution may remain effective until ADEQ informs LA it must withdraw the policy or until ADEQ adopts a policy that addresses the issue, however no existing or future policy may impose requirements on regulated entities that do not already exist in law or rule. ADEQ will review all existing LA policies related to ADEQ delegated statutes and rules for regulatory consistency. LA shall follow all ADEQ substantive policies related to ADEQ delegated statutes and rules, including if there is any conflict between ADEQ and LA policy and guidance. LA shall identify and provide all documentation for any substantive policies related to ADEQ delegated statutes and rules, or other practices or procedures that impose requirements on regulated entities (written or unwritten) related to ADEQ delegated statutes and rules, to ADEQ within 30 days of the execution of this Agreement, to: delegations@azdeq.gov. LA may contact ADEQ with questions about whether an LA policy related to ADEQ delegated statutes and rules is a substantive policy and ADEQ will respond to requests within 30 days. Procedures that only impact internal staff are not substantive policies.

5. **Third Party Dispute:** In the event of an unresolved dispute between the LA and a third party regarding the LA's interpretation or application of ADEQ statutes or rules related to ADEQ delegated statutes and rules, or a dispute that a substantive policy is imposing requirements not already in law or rule, ADEQ shall, if requested by the LA, provide timely assistance and direction to the LA. If a third party requests ADEQ provide clarification of an LA's interpretation or application of statute or rule related to ADEQ delegated statutes and rules, or the unlawful use of a substantive policy statement to impose additional requirements not in law or rule related to ADEQ delegated statutes and rules, that may affect the LAs licensing decision, the request shall be in writing in accordance with A.R.S. § 41-1001.02 and provided prior to submittal of an application for a license. ADEQ will refer the request to the LA and will work with the LA to respond to the third party. Once an application for a license is submitted, any third party requests will be handled through the LA's licensing process, including the LA's appeals process if necessary. The LA will engage ADEQ if guidance or a substantive policy related to ADEQ delegated statutes and rules is needed as outlined in B3. ADEQ retains the right to investigate and evaluate concerns expressed by applicants to determine if the processing of a permit application will be assumed by ADEQ pursuant to Section B.6.
6. **ADEQ Assumption:** ADEQ retains the authority to assume control over permits or other matters if the LA is unwilling or unable to act, or the LA and ADEQ mutually agree that ADEQ should assume control. ADEQ will communicate in writing with the LA if it is assuming control over any such action. Should ADEQ assume control over a permit, ADEQ retains the responsibility to administer the permit and conduct compliance and enforcement activities. Upon agreement with the LA, ADEQ may transfer the administration and compliance and enforcement

responsibilities and control to the LA for the ADEQ-issued permit or any permits that were previously issued by ADEQ that have not been transferred. ADEQ will work with each LA to identify any permits issued by ADEQ for which authority has not been transferred.

7. **Public Disclosure of Confidential Information Prohibited:** ADEQ and LA shall comply with prohibitions on public disclosure of confidential information including those related to critical infrastructure in A.R.S. § 41-1803(G), drinking water system security vulnerability assessments in A.R.S. § 49-205, or trade secrets pursuant to A.R.S. § 49-205.

C. **FEE AUTHORITY AND TYPES OF FEES**

1. Fees are authorized by, and shall conform to, the requirements of state laws and rules and LA ordinances, including A.R.S. § 11-251.08, A.R.S. § 9-499.15, and other fee authority statutes and rules.
2. Fees that are collected using ADEQ's statutory or rule authority must conform to such authority. If an LA is using ADEQ authority, the LA shall not exceed fees set forth by ADEQ.
3. All fees collected by the LA pursuant to this Agreement shall be retained by the LA as consideration for performing the Functions and Duties described in this Agreement.
4. ADEQ can request information about LA fee authority, fee types, and fees and revenue collected. LA agrees to work with ADEQ to provide the information within a reasonable time period.

D. **QUALIFICATIONS OF PERSONNEL RESPONSIBLE FOR EXERCISING THE DELEGATED FUNCTIONS, POWERS AND DUTIES**

1. The required personnel qualifications for exercising each Program's delegated Functions and Duties are identified in the corresponding Appendices to this Agreement.
2. The LA must employ or contract with all personnel required for the performance of the services under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with, ADEQ unless otherwise specified herein.
3. All the services required hereunder shall be performed by the LA or its contractors, except all licensing decisions and enforcement shall be performed by LA employees, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. It is further agreed that the LA warrants that it is fully qualified and authorized under state and local

law to perform the services contemplated under this Agreement.

4. If ADEQ determines that specific training is necessary to perform a delegated Function and Duty, the relevant LA personnel must attend ADEQ's training, the training will be free of cost, and the LA personnel will work with ADEQ on an alternative training arrangement if necessary.
5. LA may also request and receive training by ADEQ on a specific topic.

E. CONFLICT OF INTEREST

Either party may cancel this Agreement for conflict of interest in accordance with Section P of this Agreement, without penalty or further obligation, pursuant to A.R.S. § 38-511.

Pursuant to A.R.S. § 38-504, an employee of an LA shall not provide private services for compensation when such services are then reviewed by the governmental entity for which the employee works. Entity shall be understood to mean group, unit, or division of the LA.

An LA shall not be delegated authority for any project for which the LA has a financial interest.

F. E-VERIFY

To comply with A.R.S. § 41-4401(A), each party hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). If either party uses any subcontractors in performance of this Agreement, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of this warranty shall be deemed a material breach of the Agreement subject to penalties up to and including termination of this Agreement. Each party retains the legal right to inspect the papers of any contractor or subcontractor who works on the Agreement to ensure that the contractor or subcontractor is complying with this warranty.

G. NON-DISCRIMINATION

Pursuant to Title 41, Chapter 9, Article 4 of the Arizona Revised Statutes and Executive Order 2009-09, the LA shall provide access to equal employment opportunities for all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, and to all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Both parties shall take affirmative action to ensure that applicants for employment and employees are treated without regard to race, age, color, religion, sex, or national origin and in compliance with the Americans with Disabilities Act.

H. RECORD KEEPING AND REPORTING REQUIREMENTS

1. Unless otherwise required by law or by Arizona State Library, Archives and Public Records or other retention schedule, both parties shall maintain, in either paper or printable official format, all data, books, accounts, reports, files and other records relating to this Agreement and performance of the delegated Functions and Duties as specified in this Agreement for a period of five years after its creation or five years after any administrative or court litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been completed, whichever is later. All such records shall be subject to inspection and audit by the State at reasonable times. Upon request, either Party shall produce the official record of any or all such records. Accurate file records shall be maintained by the LA showing evidence of application processing and the licensing including date, basis and stipulations, if any, for all licenses issued or denied, including those prepared by or under the supervision of a Professional Engineer registered in the State of Arizona.
2. Any records required by ADEQ or LA for implementing this Delegation Agreement shall be provided to ADEQ or LA without cost. When requesting ADEQ records, LA should file a public records request through the ADEQ website and note that the request is being made by an LA implementing an ADEQ delegated program. When requesting LA records, ADEQ should contact the LA program staff for instructions regarding how to request LA's records.
3. **Ownership of Information and Data:**
Both parties retain title to all documents, reports, data and other materials prepared as part of this Delegation Agreement and must comply with all applicable public records regulations. ADEQ and the LA shall have full and complete rights to reproduce, duplicate, disclose, perform and otherwise use all information prepared under this agreement with the exception of providing information and data for commercial use. It is understood and agreed upon that all data collected and shared with ADEQ are considered public records. Both parties will not disclose confidential information including information about critical infrastructure such as drinking water system and well locations
4. The LA agrees to create and submit reports related to its performance of the delegated Functions and Duties as specified in this Agreement. The reports shall be created and submitted to ADEQ in accordance with the specifications below and in the Appendices to this Agreement.

Data Reporting for Delegated Functions

- a. The LA agrees to submit quarterly data reports related to its performance of the delegated Functions and Duties specified in Appendices to this Agreement and in accordance with the specifications below. The LA is not responsible for submitting reports to ADEQ related to performance of activities not related to the delegated Functions and Duties specified in

Appendices to this Agreement or as specified below or conducted with local authority only or delegation from another agency.

b. Reports shall be submitted in an electronic format to **delegations@azdeq.gov** within 30 days of the end of each calendar quarter.

c. ADEQ will evaluate additional data needs with the LA following the second full year of data reporting. This Agreement may be amended in accordance with Section O. "Amendment Procedures" to include the reporting of additional data.

Definitions

Date Application Received - The date specified per A.A.C. R18-1-Article 5 and any related ADEQ substantive policy.

Date of Permitting Decision - The date a permit or license application was issued or denied by the LA or withdrawn by the applicant.

Drinking Water System Component - Water line, booster pumps, wells, treatment, tanks and/or disinfection.

Enforcement Case - An action taken by the LA to address violation(s) of sufficient severity to warrant a Notice of Violation or escalated enforcement such as an Administrative Order, Abatement Order, Cease and Desist Order, or civil enforcement. LA may reference the enforcement matrices in the Compliance Management Handbook for guidance in determining what warrants a Notice of Violation and may work with ADEQ to establish a list of violations that should be reported.

Permit Outcome - The end result of a permitting decision. Options are issued, denied and withdrawn.

Solid Waste Inspection Type - Illegal disposal of solid waste, waste tires, used oil, lead acid batteries or nuisance.

Unique Identifier - Assessor's parcel number, physical address, applicant name, permit number, project name, inspection number or similar.

Vehicle Inspection - A solid waste refuse hauler, septic tank cleaner or biohazardous medical waste transporter inspection.

Delegated Program	PERMITTING <i>For each permit outcome reached during the reporting period:</i>	ENFORCEMENT <i>For each enforcement case closed during the reporting period:</i>	VEHICLE INSPECTIONS <i>For each vehicle inspection conducted:</i>
Water Appendix Type 4 General Permits, Swimming Pools and Subdivisions	<ul style="list-style-type: none"> • At least one unique identifier • Permit type • Date application received • Date of permitting decision • Permit outcome <p>(For Type 4 General Permits, only Construction Authorization data need to be reported.)</p>	<ul style="list-style-type: none"> • At least one unique identifier • Date of inspection • Date of case closure 	<p>N/A</p>
Water Appendix Safe Drinking Water	<ul style="list-style-type: none"> • Public Water System ID number • Drinking water system component • Permit type (Approval to Construct or Approval of Construction) • LA permit number • Date application received • Date of permitting decision • Permit outcome 	<p><i>Maricopa and Pima Counties Only</i></p> <ul style="list-style-type: none"> • At least one unique identifier • Public Water System ID number • Date of inspection • Date of case closure <p>(The Inventory Change Forms, Letters of Compliance, and Letters of Recommendation shall continue to be</p>	<p>N/A</p>

Delegated Program	PERMITTING <i>For each permit outcome reached during the reporting period:</i>	ENFORCEMENT <i>For each enforcement case closed during the reporting period:</i>	VEHICLE INSPECTIONS <i>For each vehicle inspection conducted:</i>
		submitted per ADEQ Safe Drinking Water requirements.)	
Waste Appendix Solid Waste Management	<ul style="list-style-type: none"> • Lead acid battery collection and recycling registrations, location • Septage hauler licenses, unique identifying information, such as license plate or VIN 	<ul style="list-style-type: none"> • Solid Waste inspection type • Specific locational information, such as address or latitude and longitude • Date of inspection • Date of case closure 	<ul style="list-style-type: none"> • Date of inspection • Company name • Vehicle identification number • Result (violation, no violation, or violation corrected) • County permit number
Waste Appendix Hazardous Waste Generators (HWGs)	N/A	<i>Pima County Only</i> <ul style="list-style-type: none"> • Monthly upload to RCRA info • Quarterly reporting to include information ADEQ must provide to EPA • 	N/A

Delegated Program	PERMITTING <i>For each permit outcome reached during the reporting period:</i>	ENFORCEMENT <i>For each enforcement case closed during the reporting period:</i>	VEHICLE INSPECTIONS <i>For each vehicle inspection conducted:</i>
Air Appendix Major Sources (Pinal) Emission Reduction Credit Regulations (Maricopa)	See Air Appendix (Pinal and Maricopa)	See Air Appendix (Pinal and Maricopa)	

I. OVERSIGHT ACTIVITIES

1. ADEQ shall have the right to accompany LA personnel on inspections and may review all records relating to the LA’s performance of the delegated Functions and Duties as set forth in this Agreement. ADEQ shall provide prior notice to the LA of its intent to accompany LA personnel on inspections. LA personnel may accompany ADEQ inspectors on inspections for purposes of training, information sharing or coordinating LA and ADEQ activities. LA shall provide prior notice to ADEQ of its request to accompany ADEQ inspectors on inspections.

2. Periodically, the ADEQ delegating program shall conduct an evaluation of the LA’s performance of the delegated Functions and Duties. Either party to this Agreement may request that the frequency of evaluations be increased. The initial results of all performance evaluations shall be in writing and shall be communicated to the LA and the Office of Administrative Counsel in a draft report. The LA is entitled to comment on the draft report. After ADEQ’s response to comments, the ADEQ delegating program shall finalize the report and transmit a copy to the LA and the Office of Administrative Counsel. The final reports of all performance evaluations are public documents pursuant to A.R.S. § 39-121 *et seq.*

J. DELEGATION OF ENFORCEMENT AUTHORITIES; LOCAL AGENCY

OBLIGATIONS; INSPECTIONS AND COMPLIANCE

1. Upon becoming aware at any time that a complaint involves an acute risk to human health and the environment, the goal is to mitigate the risk within 24-48 hours by resolving the issue or providing notice if resolution is not possible. Complainants should generally be responded to within three (3) calendar days, and complaints that do not involve acute risks inspected within seven (7) calendar days when an inspection is necessary.
2. As a supplement to any independent statutory authority LA may have, LA is hereby delegated the authorities indicated in the Appendices for inspection authority and compliance and enforcement authority, including authority to prevent pollution and environmental nuisances outlined in A.R.S. §§ 49-104(B)(8), -203(B)(1), -144, -763, -865 and other authorities noted in the Appendices.

The LA shall use inspection checklists and boilerplate documents provided by ADEQ or shall use such documents that contain the same content as those documents provided by ADEQ. Upon ADEQ's request, LA shall provide to ADEQ documents the LA uses to implement delegated Functions and Duties.

3. The LA shall comply with all statutory and rule requirements for inspections.
4. When inspecting land managed by the Arizona State Land Department (ASLD), contact the Trespassing and Environmental Section of ASLD to gain access, 602-542-4631. Contact ADEQ if access becomes an issue or if enforcement is being considered.
5. The LA shall be responsible for initiating timely and appropriate enforcement actions for alleged violations by individuals and facilities affected under this Agreement. The LA agrees to the extent practicable to make compliance determinations and conduct enforcement actions and may use the ADEQ's Compliance Management Handbook for guidance, but following the Handbook guidance is not required.
6. ADEQ retains its authority to take an enforcement action against any individual or facility, the regulation of which is specified in this Agreement. At its discretion, ADEQ may refrain from exercising such authority if ADEQ determines that the enforcement action taken by the LA is timely, appropriate and effective. Except in a case involving an immediate threat to the public health, safety or environment, ADEQ shall give the LA thirty (30) calendar days prior written notice of its intent to initiate an enforcement action if the LA fails to initiate such enforcement action. In a case involving an immediate threat to the public health, safety or environment, ADEQ shall make its best efforts to notify the LA prior to its undertaking such an enforcement action.
7. Where appropriate, and if there is no conflict with applicable environmental statutes

and rules, LA may conduct enforcement and compliance action using the authority provided by A.R.S. Title 36 or A.R.S. Title 49, Chapter 3, Article 3. This includes compliance inspections for delegated programs pursuant to the authority to prevent pollution and environmental nuisances outlined in § 49-104 and § 49-144. Nothing herein shall preclude LA from independently initiating enforcement action pursuant to its own authority under A.R.S. §§ 36-602, 36-603, 49-143, and 49-144, or any other civil or criminal statute or local ordinance, or from pursuing any other available legal or equitable remedy.

8. In those cases where the Attorney General has exclusive authority to bring an action, for example A.R.S. § 49-261, ADEQ shall timely notify the Attorney General of the LA's request to initiate an enforcement action, and such enforcement action shall be coordinated among the LA, ADEQ, the Attorney General and the LA's Attorney.
9. In cases of civil enforcement, the LA and ADEQ shall coordinate litigation and settlements, unless the LA has independent statutory enforcement authority. The LA and ADEQ may act as co-plaintiffs in order to maximize resources. The LA may send a written request for coordination to the ADEQ program manager listed in appendices and the Administrative Counsel.
10. In cases where LA and ADEQ are co-plaintiffs involving alleged violations that require civil penalties to be deposited in the state general fund, all civil penalties collected shall be forwarded to ADEQ with copies of court documentation for deposit into the state general fund. Unless otherwise required by law, in all other cases where LA and ADEQ are co-plaintiffs, all civil penalties collected shall be divided equally unless other mutually agreeable arrangements are made prior to the commencement of the action. The LA shall retain all civil penalties assessed and collected if LA is the only plaintiff.
11. ADEQ may execute compliance initiatives directed at certain classes of violations or facilities that are alleged to be in violation of applicable statutes or rules. When possible, ADEQ will provide the LA with thirty (30) calendar days prior written notice of such initiatives. To the best of its ability, the LA agrees to cooperate in the successful execution of such compliance initiatives that involve facilities, the regulation of which has been delegated by this Agreement.
12. Within seven (7) calendar days of initiating a formal enforcement action that is considered an appealable agency action as defined in A.R.S. § 41-1092(4), using ADEQ statute or rule authority, the LA shall provide copies to ADEQ of the formal enforcement documents. Such copies shall include appealable Notices, appealable Orders, or other civil enforcement. The LA shall provide a copy of the action to ADEQ by sending an email to delegations@azdeq.gov.

K. APPEALS OF LOCAL AGENCY ACTIONS

1. **Notice and ADEQ Involvement:** The LA agrees to submit a copy of each appeal and request for hearing that deals with any authority delegated pursuant to this Agreement to the ADEQ Administrative Counsel within seven (7) calendar days of receipt because appeals have the potential to set legal precedent for the entire State. ADEQ must be consulted prior to any such hearing. ADEQ may provide support to the LA during the appeals process and retains the right to handle an appeal of any authority delegated pursuant to this Agreement.
2. **Appeal Forum:** For administrative hearings for appealable agency actions as defined in A.R.S. § 41-1092 that are dealing solely with authority that has been delegated pursuant to this Agreement and that are not related to enforcement of LA's statutes, regulations, or ordinances, or LA's independent authority, hearings shall be held in accordance with A.R.S. Title 41, Chapter 6, Article 10 – Uniform Administrative Hearing Procedures.

For administrative hearings for appeals dealing with both authority that has been delegated pursuant to this Agreement, including administrative hearings for appeals of appealable agency actions as defined in A.R.S. § 41-1092, and either the LA's independent authority or LA's authority to enforce statutes, regulations or ordinances, hearings shall be held in accordance with the LA's required appeals procedures.

Appeals involving matters arising solely from the LA's independent authority or LA's authority to enforce statutes, regulations or ordinances are not governed by this Agreement.

3. **Appeals conducted under A.R.S. Title 41, Chapter 6, Article 10:** For appeals dealing solely with delegated authority under this Agreement and conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10, the LA shall consult with the Administrative Counsel for ADEQ prior to submitting a request for a hearing to the Office of Administrative Hearings (OAH), and ADEQ shall pay for OAH costs. ADEQ's Director or designee will make the final administrative decision, pursuant to A.R.S. § 41-1092.08.
4. **Judicial Reviews:** ADEQ must be consulted prior to any judicial review in order for ADEQ to provide a decision regarding how to manage the judicial review for any authority delegated pursuant to this Agreement.

L. LICENSING AUTHORITY

The LA shall process applications to reach a licensing decision for delegated Functions and Duties in compliance with the overall time-frames set forth in A.A.C. R18-1-525, Tables 5 (sum of Administrative Completeness Review Time-Frame and Substantive Review Time-Frame), and 10 (Overall Time-Frame). If the LA demonstrates a pattern of failing to

meet the required licensing time frames, ADEQ shall assist the LA in correcting the deficiencies in LA's licensing procedures.

M. LOCAL AGENCY INDEPENDENT AUTHORITY; SUB-DELEGATION; AND JURISDICTIONAL COORDINATION

1. ADEQ's delegation of Functions and Duties to a municipality within the LA's boundaries shall in no way infringe upon, reduce or usurp the LA's right, authority and responsibility to implement non-delegated authorized activities and programs.
2. The LA may not subdelegate Functions and Duties delegated pursuant to this Agreement to another local government agency or political subdivision without obtaining the prior written approval of the Director, Deputy Director, or appropriate Division Director of ADEQ.
3. For authority delegated pursuant to this Agreement, the LA shall not enforce, approve, or permit anything beyond its jurisdictional boundaries unless approved by ADEQ as part of this Agreement or an amendment to this Agreement. Tribal lands are not regulated by ADEQ and are therefore not delegated for regulation by the LA.
4. Prior to entering into any delegation agreement with a municipality, located in whole or in part within the LA's boundaries, ADEQ shall coordinate with both the LA and the municipality on jurisdictional issues.
5. Before any changes to jurisdictional boundaries are made that affect this Agreement, parties shall notify ADEQ, and ADEQ shall coordinate with the parties.
6. If LA has its own health and environmental code which covers matters delegated to a municipality by ADEQ it is agreed that such municipal delegations will be executed jointly by ADEQ and the LA.

N. CONFLICT RESOLUTION PROCEDURES

1. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and, where applicable, the Arizona Procurement Code at A.R.S. § 41-2501 *et seq.* and administrative rules and regulations A.A.C. R2-7-101 *et seq.*, that constitute the Arizona Procurement Code.
2. In the event of any judicial proceeding related to this Agreement or any Subcontract the parties agree that venue shall be proper in Maricopa County, Arizona.
3. If a dispute that arises out of this Agreement is based upon an Administrative Order

issued by the Director of ADEQ, any and all appeals from such an Order are subject to hearing at the Arizona Office of Administrative Hearings pursuant to A.R.S. § 41-1092 *et seq.*, or the Water Quality Appeals Board pursuant to A.R.S. § 49-321 *et seq.* (whichever is applicable), and any and all such appeals shall be determined pursuant to hearing as prescribed by A.R.S. § 41-1092 *et seq.*

4. Pursuant to A.R.S. § 12-1518, if a dispute arises out of this Agreement or any subcontract thereto, and the amount in controversy does not exceed the statutory amount as set forth by statute, the matter shall be, upon filing the matter with Maricopa County Superior Court, submitted to and decided by an arbitrator or arbitrators in accordance with the provisions of A.R.S. § 12-133 *et seq.* and Az.R.Civ.Pro.72-76.
5. If a dispute arises out of this Agreement or any subcontract thereto, and the amount in controversy exceeds the statutory amount, the matter shall be filed in Maricopa County Superior Court and litigated pursuant to the appropriate litigation statutes.

O. AMENDMENT PROCEDURES

1. Either party may seek to amend this Agreement. An amendment to this Agreement shall be in writing, shall be executed by the Director of ADEQ or his or her designee, the Director of the LA, the Chairman of the LA's Board of Supervisors, and the Clerk of the LA's Board of Supervisors. Amendments shall comply with the provisions in A.R.S. § 41-1081, including Public Notice and Comment.
2. Amendments to this Agreement shall be effective 30 calendar days after written notice of ADEQ's final decision to amend this agreement and approval by all parties.

P. TERMINATION PROCEDURES

1. This Agreement may be terminated, in whole or in part, by either party upon providing 30 calendar days prior written notice by certified mail to the other party and in compliance with subsection 2 of this section. The notice shall specify the effective date of termination.
2. The LA shall, prior to the termination of all or part of this Agreement, deliver to the ADEQ Director all finished or unfinished files, public documents, pending applications received by the LA for those delegated Functions and Duties, and pending inspection documents related to those delegated Functions and Duties being terminated, and a summary status report of those delegated Functions and Duties, and shall provide written notification of the effective date of termination to all persons with pending applications and to all regulated facilities affected by the termination of this Agreement.

Q. TERM OF AGREEMENT

This Agreement is effective 30 calendar days after the Director gives written notice of final decision to enter into this Agreement and approval by all parties. This Agreement shall expire on June 30, 2050, if a new Agreement is not executed by that date. ADEQ and the LA may agree to extend this Agreement by filing an amendment in accordance with Section O of this Agreement.

R. INDEMNIFICATION

Each party (as “Indemnitor”) agrees to defend, indemnify, and hold harmless the other party (as “Indemnitee”) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney’s fees) (hereinafter collectively referred to as “Claims”) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, Department of Environmental Quality, is self-insured per A.R.S. § 41-621.

In addition, should LA utilize a contractor(s) and subcontractor(s), the indemnification clause between LA and its contractor(s) and subcontractor(s) shall include the following:

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the LA and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally, on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

S. AVAILABILITY OF FUNDS

Pursuant to A.R.S. § 35-154(A), every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

T. SEVERABILITY

The provisions of this Agreement are severable to the extent that any provision or application found to be invalid shall not affect any other provision or application of the Agreement, which shall remain in effect without the invalid provision or application.

U. NAME AND ADDRESS OF PRIMARY CONTACT PERSONS

Office of Administrative Counsel
Arizona Department of Environmental Quality
1110 W. Washington Street
Phoenix, AZ 85007
Telephone: (602) 771-2242
Email: oac@azdeq.gov

Kimberly Cole
Apache County Health Director
Apache County Public Health Services District
75 West Cleveland Street (2nd Floor)
PO Box 697
St. Johns, AZ 85936
Telephone:
Email: kcole@apachecountyaz.gov

The name of a successor to any of the above-named individuals shall not require the execution of an amendment to this Agreement.

**WASTE APPENDIX
To
#EV24-0013**

Apache County

SOLID WASTE MANAGEMENT

The Functions and Duties of this Appendix are described in Sections A through E as follows:

A. DELEGATED FUNCTIONS AND DUTIES

The Local Authority (LA) agrees to perform those delegated Functions and Duties that are indicated with a “Yes” in the first column of the following table. Applicable statutes, rules and Title 40 Code of Federal Regulations (CFR) include those that authorize or prohibit the described activities and those that are to be enforced during the conduct of those activities. Personnel qualifications correspond to descriptions in section C.

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code, and the Code of Federal Regulations	Personnel Qualifications
Yes	1. Inspection of septage haulers for ADEQ licensing and complaints; inspections conducted at least annually. See Section B for more information about annual inspections.	A.R.S. § 49-104(B)(8) A.R.S. § 49-141 through 144, Environmental nuisances R18-13-1106 Inspection R18-13-1112 Sanitary Requirements R18-13-1116 Suspension and Revocation R18-13-1117 Reinstatement	C1, C2, C3, C4, C5, C6, C7

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code, and the Code of Federal Regulations	Personnel Qualifications
No	2. Inspection of refuse haulers and complaints; inspections conducted at least once every two years.	A.R.S. § 49-104(B)(8) A.R.S. § 49-141 through 144, Environmental nuisances R18-13-304 Inspection R18-13-305 Collection Required R18-13-306 Notices R18-13-308 Frequency of Collection R18-13-309 Place of Collection R18-13-310 Vehicles R18-13-311 Disposal; General	C1, C2, C3, C4, C5, C6, C7
Yes	3. Inspection of nuisance complaints, and enforcement to eliminate environmental nuisances. Note: See Section B.	A.R.S. § 49-141 through 144, Environmental nuisances R18-13-303 Responsibility R18-13-304 Inspection	For inspections, compliance, and enforcement: C1, C2, C3, C4, C5 For inspections only: C6, C7
Yes	4. Inspection and enforcement to eliminate illegal disposal of solid waste except for waste more	A.R.S. § 49-701, Definitions A.R.S. § 49-701.01, Definition of solid waste; exemptions A.R.S. § 49-791(A)(4);	For inspections, compliance, and enforcement: C1, C2, C3, C4, C5 For inspections only: C6, C7

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code, and the Code of Federal Regulations	Personnel Qualifications
	specifically described in Functions and Duties 5,6, 7, 8, and 9	Violation; classification; penalties R18-13-303 Responsibility R18-13-304 Inspection	
No	5. Inspection and enforcement to eliminate illegal disposal of tires.	A.R.S. §44-1301, Definitions A.R.S. §44-1304, Disposal of waste tires A.R.S. §44-1304.01, Storage, disposal, discard or abandonment of used motor vehicle tires; registration fees; violation; classification; exception A.R.S. §44-1307, Civil penalties; environmental nuisance	For inspections, compliance, and enforcement: C1, C2, C3, C4, C5 For inspections only: C6, C7
No	6. Inspection and enforcement to eliminate used oil disposal to land.	A.R.S. § 49-801, Definitions A.R.S. § 49-803, Prohibited practices A.R.S. § 49-811, Violation; civil penalty A.R.S. § 49-812, Compliance orders; injunctive relief A.R.S. § 49-817, Enforcement powers of the director and inspectors 40 CFR § 279.1, Definitions	For inspections, compliance, and enforcement: C1, C2, C3, C4, C5 For inspections only: C6, C7

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code, and the Code of Federal Regulations	Personnel Qualifications
No	7. Inspection and enforcement of used oil generators for compliance with storage, labeling, and release response requirements.	<p>A.R.S. § 49-801, Definitions</p> <p>A.R.S. § 49-802.C.1, Federal used oil program; incorporation by reference; rule making</p> <p>A.R.S. § 49-811, Violation; civil penalty</p> <p>A.R.S. § 49-812, Compliance orders; injunctive relief</p> <p>A.R.S. § 49-817, Enforcement powers of the director and inspectors</p> <p>40 CFR § 279.1, Standards for the Management of Used Oil (Definitions)</p> <p>40 CFR § 279.22, Standards for Used Oil Generators (Used oil storage)</p>	<p>For inspections, compliance, and enforcement: C1, C2, C3, C4, C5</p> <p>For inspections only: C6, C7</p>
No	8. Inspection and enforcement of lead acid battery collection and recycling facilities to eliminate illegal disposal. Registration is performed by ADEQ.	<p>A.R.S. § 49-104(B)(8)</p> <p>A.R.S. § 44-1321, Definitions</p> <p>A.R.S. § 44-1322, Disposal of lead acid batteries</p> <p>A.R.S. § 44-1324, Civil penalties; environmental nuisance</p>	<p>For inspections, compliance, and enforcement: C1, C2, C3, C4, C5</p> <p>For inspections only: C6, C7</p>

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code, and the Code of Federal Regulations	Personnel Qualifications
No	9. Inspection of agricultural solid waste landfills operated by persons engaged in farming or ranching on at least 40 acres in an unincorporated area.	A.R.S. § 49-104(B)(8) A.R.S. § 49-763, Inspections A.R.S. § 49-766(B), Agricultural landfills; notice R18-13-304, Inspection R18-13-311, Disposal; General	C1, C2, C3, C4, C5, C6, C7
No	10. Inspection of landfills for the disposal of solid waste resulting from residents' household activities at single family residences located on a farm or ranch of more than 40 acres in an unincorporated area.	A.R.S. § 49-104(B)(8) A.R.S. § 49-763, Inspections A.R.S. § 49-766(A); Agricultural landfills; notice R18-13-304, Inspection R18-13-311, Disposal; General	C1, C2, C3, C4, C5, C6
No	11. Approval of new subdivision solid waste collection and disposal that aligns with rules.	R18-5-409, Refuse Disposal R18-13-306, Notices R18-13-305, Collection Required R18-13-311, Disposal; General R18-13-312, Methods of Disposal	C1, C2, C3, C4, or C5, C6

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code, and the Code of Federal Regulations	Personnel Qualifications
No	12. Inspections related to biohazardous medical waste transporters for ADEQ registration; inspections conducted at least annually.	A.R.S. § 49-104(B)(8) A.R.S. § 49-761(D), Rulemaking authority for solid waste facilities; exemption; financial assurance; recycling facilities A.R.S. § 49-763, Inspections A.R.S. § 49-768, Civil penalties R18-13-1401, Definitions R18-13-1402, Applicability R18-13-1403, Exemptions; Partial Exemptions R18-13-1404, Transition and Compliance Dates R18-13-1409, Transportation License; Annual Fee	C1, C2, C3, C4, C5, C6

B. EXCEPTIONS AND SPECIAL PROVISIONS

1. ADEQ retains authority for approval and issuance of solid waste facility plans pursuant to 40 CFR Part 257 and 258 for municipal and nonmunicipal solid waste landfills, and other facilities identified in A.R.S. § 49-762. ADEQ also retains authority for the enforcement of all such solid waste facilities.
2. LA will conduct nuisance and complaint inspections and enforcement on LA land (unless the facility is owned or operated by the LA) or private land. For State and Federal land, LA may conduct nuisance inspections and enforcement or refer the nuisance complaint to the property owner and/or ADEQ for resolution. If both permitting and inspection functions are not delegated to an LA for a particular permit type, nuisance responses for that permit should be conducted by ADEQ.

LA's are encouraged to work with ADEQ on nuisance responses and utilize their own authority to mitigate nuisances as quickly as possible.

3. The LA shall inspect at least once every two years all vehicles (excluding private passenger cars and pick-ups), that are routinely used to haul waste if delegated that inspection function and duty. ADEQ has authority to conduct annual inspections of refuse waste haulers pursuant to A.A.C. R18-13-304.
4. The LA shall annually inspect all septage haulers if delegated that inspection function and duty. ADEQ has authority to conduct annual inspections of septage haulers pursuant to A.A.C. R18-13-1106.
5. The LA shall annually inspect all biohazardous medical waste haulers if delegated that inspection function and duty. ADEQ has authority to conduct annual inspections of biohazardous medical waste haulers pursuant to A.R.S. § 49-763 and A.A.C. R18-13-1409.
6. When inspections are referenced in the Functions and Duties they can include pre-inspection file review, contact with facility personnel to discuss the upcoming inspection and questions from the file review, any investigative work necessary for completing a thorough inspection or post-inspection follow-up, the inspection itself, and the closing conference to review the inspection with the facility personnel. Arizona Revised Statutes, Title 41 inspection procedures and other applicable inspection laws and rules must be followed.
7. ADEQ will provide LA with any necessary guidance and direction for used oil inspections and enforcement pursuant to delegated Functions and Duties in Section B(6).
8. The septage hauler license fee charged by ADEQ is for oversight of the Arizona septage hauler program, including providing support to the LAs and tracking septage vehicles statewide. ADEQ does not consider an LA that is delegated inspection authority and that charges for a license and/or inspection to have duplicative licensing and fees because the LA fees are for specific regulation and the ADEQ license fee is for oversight for all of Arizona. For more information, see the Notice of Final Rulemaking for Septage Haulers, May 25, 2012, Volume 18, Issue 21, Page 1217.
https://apps.azsos.gov/public_services/register/2012/21/final.pdf

C. PERSONNEL QUALIFICATIONS

The following describes the minimum personnel qualifications that are required for persons performing the delegated Functions and Duties in the table of Section A. If a qualification is listed in the table of Section A, that duty may be performed by a person with that

qualification. If multiple qualifications are listed, a person who meets any of those qualifications may perform the duty.

Minimum qualifications must be met by all staff. Existing staff who do not meet the minimum qualifications as of the date of execution of this Agreement may receive an exception by their manager for up to two years.

LA are encouraged to build technical competency within programs. Technical competency improves the protection of human health and the environment. Building technical competency often means hiring staff that have more formal education.

Staff personnel should be supervised by a person with training and experience in the functions and duties being conducted. Staff personnel should also ensure issues are addressed by those with knowledge and training in the task to be performed. If there are engineering issues that require a professional engineer's review, staff must obtain that review

Qualifications

1. Duties performed by a Professional Engineer registered in the State of Arizona pursuant to A.R.S. § 32-123 and A.A.C. R4-30-224 as determined by the Board of Technical Registration.
2. Duties performed by an Engineer-in-Training pursuant to A.R.S. § 32-101 and A.A.C. R4-30-222, or a graduate of a four-year engineering degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology or its predecessor organization.
3. Duties performed by a Registered Sanitarian/Environmental Health Sanitarian registered in the State of Arizona pursuant to A.R.S. § 36-136.01 and A.A.C. R9-16-401 et seq.
4. Duties performed by a Professional Geologist registered in the State of Arizona pursuant to A.R.S. § 32-123 and A.A.C. R4-30-244 as determined by the Board of Technical Registration.
5. Duties performed by an Environmental Professional who has a four-year degree in a field related to their duties, and training and/or experience in the duties to be performed.
6. Duties performed by an Environmental Health Sanitarian Aide as defined in, and with the supervision described in, A.A.C. R9-16-401(11) and -403.
7. Duties performed by an Environmental Technician who has training and/or experience in the duties to be performed, only after efforts have been made to hire candidates with a four-year degree in a related field. An associate's degree or higher is preferred. An Environmental Technician performs basic analysis and tests, under the supervision of a Registered Sanitarian or P.E.

D. LOCAL FEE AUTHORITY

An LA may have authority to enact fees for delegated Functions and Duties, which is different from ADEQ's fee authority.

E. AGENCY CONTACT PERSONS

The following LA employee is responsible for administering the delegated Functions and Duties pursuant to this Appendix and is the contact person when ADEQ must provide notice to the LA. The LA employee is responsible for distributing any notice received to other staff and managers. The LA shall provide written notice to ADEQ of any successor.

Name: Kimberly Cole
Title: Apache County Health Director
Address: Apache County
Apache County Public Health Services District
75 West Cleveland Street (2nd Floor)
PO Box 697
St. Johns, AZ 85936
Telephone:
Email: kcole@apachecountyaz.gov

The following ADEQ employees are responsible for administering the Functions and Duties pursuant to the Appendix. ADEQ shall provided written notice to the LA of any successor.

Title: Manager, Solid Waste/Hazardous Waste Section
Waste Programs Division
Telephone: (602) 771-4503

The naming of a successor to any of the above-named individuals shall not require the re-execution of or an amendment to this Agreement.

**WATER APPENDIX
To
#EV24-0013
Apache County**

WATER QUALITY MANAGEMENT

The Functions and Duties of this Appendix are described in Sections A through E as follows:

A. DELEGATED FUNCTIONS AND DUTIES

The Local Authority (LA) agrees to perform those delegated Functions and Duties that are indicated with a “Yes” in the first column of the following table. Applicable statutes, rules and Title 40 Code of Federal Regulations (CFR) include those that authorize or prohibit the described activities and those that are to be enforced during the conduct of those activities. Personnel qualifications correspond to descriptions in section C. Refer to the **EXCEPTIONS AND SPECIAL PROVISIONS** in **Section B** for additional requirements for certain delegated Functions and Duties.

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
Yes	1. General Functions and Duties pertaining to the administration of <u>Type 1 and Type 4 General Aquifer Protection Permits</u> delegated to the LA pursuant to this table, including complaint and nuisance inspection and enforcement. The extent of the applicable rules for these general Functions and Duties shall be limited to those relevant to the approvals, authorizations and permits which are herein delegated to the LA. Delegated Functions and Duties are further limited	A.R.S. § 49-104(B)(8) A.R.S. § 49-141 through 144, Environmental nuisances A.R.S. § 49-203(B)(1) A.R.S. § 49-241(A), “[A] facility that discharges shall obtain an aquifer protection permit from the director.” A.R.S. § 49-261, Compliance Orders; appeal; enforcement A.R.S. § 49-262, Injunctive relief; civil penalties; recovery of litigation costs; affirmative defense R18-9-101 Definitions	See qualifications for specific Functions and Duties below.

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
	in Section B of this Appendix.	<p>R18-9-110 Inspections, Violations and Enforcement</p> <p>R18-9-A301(A)(1), (A)(4), (B) and (D) Discharging under General Permit</p> <p>R18-9-A302 Point of Compliance</p> <p>R18-9-A303 Renewal of Discharge Authorization</p> <p>R18-9-A304 Notice of Transfer</p> <p>R18-9-A305 Facility Expansion</p> <p>R18-9-A306 Closure</p> <p>R18-9-A307 Revocation of Coverage</p> <p>R18-9-A308 Violations and Enforcement for On-site Wastewater Treatment Facilities</p> <p>R18-9-A309(A)-(D) General Provisions for On-site Wastewater Treatment Facilities</p> <p>R18-9-A310 except (D)(1)(d) and (H) On-site Wastewater Treatment Facilities</p> <p>R18-9-A311 Facility Selection for Type 4 On-site Wastewater Treatment Facilities</p> <p>R18-9-A312 Facility Design for Type 4 On-site Wastewater Treatment Facilities</p>	

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
		<p>R18-9-A313 Facility Installation, Operation, and Maintenance for On-site Wastewater Treatment Facilities</p> <p>R18-9-A314 except (3)(b) Septic Tank Design, Manufacturing, and Installation for On-site Wastewater Treatment Facilities</p> <p>R18-9-A315 Interceptor Design, Manufacturing, and Installation for On-site Wastewater Treatment Facilities</p> <p>R18-9-A316 except (B) (2) and (B)(3)(f) Transfer of Ownership Inspection for On-site Wastewater Treatment Facilities</p>	
<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>2. Complaint response, compliance assistance, and compliance and enforcement responsibilities (including inspections) for the following <u>Type 1 General Aquifer Protection Permits</u>.</p> <p><i>A Yes or No by each Type 1 General APP denotes whether that permit is delegated.</i></p> <p>1.07 Dockside facilities and watercraft</p> <p>1.08 Earth pit privy</p> <p>1.09 On-site wastewater treatment facilities approved by the Department before January 1, 2001 operating under a general permit before</p>	<p>R18-9-B301(G), (H), (I), (J), and (K) Type 1 General Permit</p>	<p>C1, C2, C3, C4, C5, C6, C7</p>

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
<p>No</p> <p>No</p>	<p>January 1, 2001 with a flow less than 20,000 gallons per day</p> <p>1.10 Sewage collection systems subject to R18-9-B301(J)</p> <p>1.11 Sewage collection systems subject to R18-9-B301(K)</p>		
<p>Yes</p>	<p>3. Application review, construction inspection, issuance or denial of Construction and Discharge Authorizations, compliance (including inspections) and enforcement tasks for the <u>4.02 General Aquifer Protection Permit for a Septic Tank System with Disposal by Trench, Bed, Chamber Technology, or Seepage Pit</u> with a design flow of less than 3000 gallons per day.</p>	<p>R18-9-E302 4.02 General Permit: Septic Tank with Disposal by Trench, Bed, Chamber Technology, or Seepage Pit, Less Than 3000 Gallons Per Day Design Flow and relevant rules listed for Item #1</p>	<p>For construction and discharge authorizations: C1, C2, C3, C4, C5, C6</p> <p>For inspections, compliance, and enforcement: C1, C2, C3, C4, C5, C6, C7</p>
	<p>4. Application review, construction inspection, issuance or denial of Construction and Discharge Authorizations, compliance (including inspections) and enforcement for the following <u>4.03 through 4.22 General Aquifer Protection Permits for On-</u></p>	<p>Relevant rules listed for Item #1 and: R18-9-E303 R18-9-E304 R18-9-E305 R18-9-E306 R18-9-E307 R18-9-E308 R18-9-E309 R18-9-E310 R18-9-E311 R18-9-E312</p>	<p>For construction and discharge authorizations: C1, C2, C3, C4, C5</p> <p>For inspections, compliance, and enforcement:</p>

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>	<p><u>Site Wastewater Treatment Facilities</u> with a design flow of less than 3000 gallons per day.</p> <p><i>A Yes or No by each Type 4 General APP denotes whether that permit is delegated.</i></p> <p>4.03 Composting toilet</p> <p>4.04 Pressure distribution system</p> <p>4.05 Gravelless trench</p> <p>4.06 Natural seal E-T bed</p> <p>4.07 Lined E-T bed</p> <p>4.08 Wisconsin mound</p> <p>4.09 Engineered pad system</p> <p>4.10 Intermittent sand filter</p> <p>4.11 Peat filter</p> <p>4.12 Textile filter</p> <p>4.13 Denitrifying w/separated wastewater</p> <p>4.14 Sewage vault</p> <p>4.15 Aerobic system</p> <p>4.16 Nitrate-reactive media filter</p> <p>4.17 Cap system</p> <p>4.18 Constructed wetlands</p> <p>4.19 Sand-lined trench</p> <p>4.20 Disinfection devices</p> <p>4.21 Surface disposal</p> <p>4.22 Subsurface drip irrigation</p>	<p>R18-9-E313</p> <p>R18-9-E314</p> <p>R18-9-E315</p> <p>R18-9-E316</p> <p>R18-9-E317</p> <p>R18-9-E318</p> <p>R18-9-E319</p> <p>R18-9-E320</p> <p>R18-9-E321</p> <p>R18-9-E322</p>	<p>C1, C2, C3, C4, C5, C6, C7</p>
<p>No</p>	<p>5. Application review, inspection, issuance or denial of Construction and Discharge Authorizations, compliance and enforcement for the <u>4.23 General Aquifer Protection</u></p>	<p>A.R.S. § 49-245 Criteria for issuing general permit - requirements of operation by a certified service provider and an addendum accompanying the general permit.</p>	<p>For construction and discharge authorizations: C1; C2 and C3 (if there has been independent</p>

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
	<u>Permit for On-Site Wastewater Treatment Facilities</u> with a design flow from 3000 to less than 24,000 gallons per day	R18-9-E323 4.23 General Permit: 3000 to less than 24,000 Gallons Per Day Design Flow and relevant rules listed for Item #4.	engineering review or supervision by a Professional Engineer) For inspections, compliance, and enforcement: C1, C2, C3, C4, C5, C6
No	6. Application review, inspection, issuance or denial of Construction and Discharge Authorizations, compliance (including inspections) and enforcement for the <u>4.01 General Aquifer Protection Permit for Sewage Collection Systems</u>	R18-9-E301 4.01 General Permit: Sewage Collection Systems and relevant rules listed for Item #1.	For construction and discharge authorizations: C1; C2 and C3 (if there has been independent engineering review or supervision by a Professional Engineer) For inspections, compliance, and enforcement: C1, C2, C3, C4, C5, C6

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
Yes	7a. Complaint response and compliance assistance for private residential <u>Gray Water Systems</u> authorized by the Type 1 Recycled Water General Permit.	R18-9-A701 Definitions R18-9- D701 Recycled Water General Permit	C1, C2, C3, C4, C5, C6, C7
No	7b. Application review, inspection, issuance or denial of <u>Construction and Discharge Authorizations</u> , compliance and enforcement for the Type 3 Recycled Water General Permit for Gray Water for flows less than 3000 gpd.	A.R.S. § 49-104(B)(8) A.R.S. §49-144 A.R.S. §49-203(B)(1) R18-9-A701 Definitions R18-9- D702 Recycled Water General Permit	C1, C2, C3, C4, C5, C6
No	8. <u>Certificate of Approval for Sanitary Facilities for Subdivisions</u> • Application review, inspection, and certificate issuance or denial as appropriate	R18-9-A309(A)(8)(c) General Provisions for On-site Wastewater Treatment Facilities R18-5-401 Definitions R18-5-402 Approval of Plans Required R18-5-403 Application for Approval R18-5-404 Size of Lots R18-5-405 Responsibility of Subdivider R18-5-406 Public Water Systems R18-5-407 Public Sewerage Systems	C1, C2, C3 (independent engineering review or supervision by a Professional Engineer recommended)

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
		R18-5-408 Individual Sewage Disposal Systems R18-5-409 Refuse Disposal R18-5-410 Condominiums R18-5-411 Violations	
No	<p>9. <u>Public Water Systems Approval to Construct (ATC) and Approval of Construction (AOC) for water line extensions and related appurtenances and booster pump facilities only:</u></p> <ul style="list-style-type: none"> • Application review, construction inspection, and certificate issuance or denial as appropriate • Note: Government-owned or -operated projects (federal, state, or county) are NOT delegated and must be sent to ADEQ for review. • Delegated partners shall consult with ADEQ on all interconnects so that ADEQ may determine potential impacts from new sources. 	R18-4-103 definitions in 40 CFR 141, Subpart A R18-4-103 General – 40 CFR 141, Subpart A R18-4-103 Incorporated by reference Best Available Technologies [40 CFR 142.62] R18-4-213 Standards for Additives, Materials and Equipment R18-4-215 [except (F) through (I)] Backflow Prevention R18-4-217 Revised Total Coliform Rule 40 CFR Part 141, Subpart Y] R18-5-501 Siting Requirements R18-5-502 Minimum Design Criteria R18-5-503 Storage Requirements R18-5-504 Prohibition on the Use of Lead Pipe, Solder, and Flux R18-5-505 Approval to Construct R18-5-506 Compliance with Approved Plans	C1; C2 (if there has been independent engineering review or supervision by a Professional Engineer)

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
		R18-5-507 Approval of Construction R18-5-508 Record Drawings R18-5-509 Modification to Existing Treatment Process A.R.S.§49-354 enforcement related to ATC/AOC	
No	<p>10. <u>Public Water Systems Approval to Construct (ATC) and Approval of Construction (AOC) for wells, new source, storage tanks, treatment and blending plans and point of use/point of entry devices:</u></p> <ul style="list-style-type: none"> • Application review, construction inspection, and certificate issuance or denial as appropriate <p>Note: Government-owned or -operated projects (federal, state, or county) are NOT delegated and must be sent to ADEQ for review.</p>	R18-4-103 definitions in 40 CFR 141, Subpart A R18-4-103 General – 40 CFR 141, Subpart A R18-4-103 Incorporated by reference Best Available Technologies [40 CFR 142.62] R18-4-111 Control of Lead and Copper R18-4-213 Standards for Additives, Materials and Equipment R18-4-215 [except (F) through (I)] Backflow Prevention R18-4-217 Revised Total Coliform Rule 40 CFR Part 141, Subpart Y] R18-5-501 Siting Requirements R18-5-502 Minimum Design Criteria R18-5-503 Storage Requirements R18-5-504 Prohibition on the Use of Lead Pipe, Solder, and Flux	C1; C2 (if there has been independent engineering review or supervision by a Professional Engineer)

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
		R18-5-505 Approval to Construct R18-5-506 Compliance with Approved Plans R18-5-507 Approval of Construction R18-5-508 Record Drawings R18-5-509 Modification to Existing Treatment Process A.R.S.§49-354 enforcement related to ATC/AOC	
No	11. <u>Public Water Systems</u> <ul style="list-style-type: none"> • Compliance and Enforcement - Conduct sanitary surveys (compliance inspections) to ensure proper operation and maintenance of water systems and related enforcement 	R18-4-101 R18-4-102 R18-4-103 [except the incorporation by reference to 40 CFR 141.4 and except for subsections € and (D)] R18-4-104 through R18-4-111, and R18-4-412 through R18-4-114 R18-4-117 through R18-4-126 R18-4-201 through R18-4-218 [except R18-4-216]	C1, C2, C3, C4, C5

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
No	<p>12. <u>Public Water Systems</u></p> <ul style="list-style-type: none"> Follow-up Compliance and Enforcement - Follow-up and resolutions of violations related to monitoring, reporting, and water quality issues at public water systems. 	<p>R18-4-101</p> <p>R18-4-102</p> <p>R18-4-103 [except the incorporation by reference to 40 CFR 141.4 and except for subsection (C) and (D)]</p> <p>R18-4-104 through R18-4-114</p> <p>R18-4-117 through R18-4-126</p> <p>R18-4-201 through R18-4-218 [except R18-4-216]</p>	C1, C2, C3, C4, C5
No	<p>13. <u>Public and Semipublic Swimming Pools</u></p> <ul style="list-style-type: none"> Approval to Construct (ATC) and Approval of Construction (AOC) Application review, construction inspection, and certificate issuance or denial as appropriate Compliance and enforcement 	<p>A.A.C. Title 18, Chapter 5, Article 2 Public and Semipublic Swimming Pools and Spas [R18-5-201 through R18-5-251]</p> <p>R18-4-103 as related to definitions</p> <p>R18-4-213 Standards for Additives, Materials, and Equipment</p>	C1, C2, C3, C4, C5
Yes	<p>14. <u>Notice of Transfer</u></p> <p>Transferring ownership of an on-site wastewater treatment facility for which the LA has accepted delegation. Maricopa, Pima,</p>	R18-9-A304 Notice of Transfer	C1, C2, C3, C4, C5, C6, C7

Delegated Yes/No	Functions and Duties	Applicable Portions of the Arizona Revised Statutes, the Arizona Administrative Code and the Code of Federal Regulations	Personnel Qualifications
	<p>Coconino, and Yavapai require submission of all NOTs directly to them. For all other counties, ADEQ will process NOTs submitted electronically to ADEQ, and any paper NOTs are processed by the counties.</p>		

B. EXCEPTIONS AND SPECIAL PROVISIONS

1. LA will conduct nuisance and complaint inspections and enforcement on LA land (unless the facility is owned or operated by the LA) or private land. For State and Federal land, LA may conduct nuisance inspections and enforcement or refer the nuisance complaint to the property owner and/or ADEQ for resolution. If both permitting and inspection functions are not delegated to an LA for a particular permit type, nuisance responses for that permit should be conducted by ADEQ. LA's are encouraged to work with ADEQ on nuisance responses and utilize their own authority to mitigate nuisances as quickly as possible.
2. If an LA is only delegated waterline and/or booster pump projects for a public water system, the public water system approval shall not be split between the LA and ADEQ. If a waterline and/or booster pump is part of a larger project that includes a well, tank, chlorinator, treatment, etc. then the whole project shall be under ADEQ jurisdiction.
3. The LA is responsible for all sanitary surveys.
4. ADEQ may temporarily suspend delegated Functions and Duties nine (9) through twelve (12) in Table A, for specific public water systems that are receiving technical and/or financial assistance to remedy non-compliance. ADEQ will provide notice to an LA of any temporary suspension in delegation. ADEQ may return the delegation, if LA consents, once the public water system is serving potable water meeting all drinking water standards and has capacity to maintain the system.

5. ADEQ will provide the LA a copy of the draft Individual Aquifer Protection Permit for review and comment for any sewage treatment facility proposed within the LA's jurisdictional boundaries. ADEQ shall not accept, directly from an applicant any application package that involves the performance of a delegated Function or Duty. However, if the Director or Director's designee of ADEQ determines there is a compelling reason for ADEQ to review and/or approve an application package that involves a delegated Function or Duty, the LA shall provide the application package to ADEQ upon written request by the Director or Director's designee of ADEQ. ADEQ shall forward a copy of the completed file to the LA for any application package reviewed by ADEQ.
6. When inspections are referenced in the delegated Functions and Duties they can include pre-inspection file review, contact with facility personnel to discuss the upcoming inspection and questions from the file review, any investigative work necessary for completing a thorough inspection or post-inspection follow-up, the inspection itself, and the closing conference to review the inspection with the facility personnel. Arizona Revised Statutes, Title 41 inspection procedures and other applicable inspection laws and rules must be followed.
7. Functions, and Duties of ADEQ related to the following facilities are NOT delegated:
 - a. Public water systems, wastewater or swimming pool facilities (1) owned by the federal government or the State of Arizona, (2) owned or operated by the LA, or (3) owned or operated by districts subject to the control of the LA. A private facility to be dedicated to the LA after completion of construction may be reviewed by the LA if all approvals and licenses are issued to the owner of the private facility prior to the date of the dedication to the LA.
 - b. Final approval of any public water system, wastewater facility or swimming pool facility which is designed by or for the LA, or for a capital improvement project, is NOT delegated to the LA. This exception does not prohibit or otherwise affect later assignment or transfer to the LA of a public water system, wastewater facility or swimming pool facility having a construction completion approval issued by the LA.
 - c. Those relating to facilities financed, either wholly or in part, with federal grant funds administered by ADEQ. ADEQ shall provide a list of such facilities to the LA.
 - d. Those related to the implementation of A.A.C. R18-9-A312(G) where:
 - i. the request is beyond the scope of the technologies delegated to the LA;
 - ii. the request proposes a change to the listed performance criteria or hydraulic loading rates specified in A.A.C. R18-9-E302 through R18-9-E323, A.A.C. R18-E309(E) or in any ADEQ approved

- design reference document;
- iii. the request proposes a change to the relationship between soil absorption rate and either the percolation rate or the soil type, as established in A.A.C. R18-9-A312(D) except for adjustments due to the fraction of rock present in native soil; or
 - iv. the request proposes a change to the relationship between the total coliform concentration, and the minimum vertical separation from groundwater or from a subsurface limiting condition, as established in A.A.C. R18-9-A312(E).
8. For the purposes of determining applicability of project cost exemptions under A.A.C. R18-5-505(B), project cost is determined by the sum of the following cost categories:
- a. preparation of submittal quality design documents and related application documents for the project proposed for installation,
 - b. all equipment/components/materials delivered to the construction site,
 - c. all excavation & backfill,
 - d. all installation of equipment/components/materials, and
 - e. all tasks associated with pre-operational testing & startup.
9. ADEQ and LA will develop a process for sharing information about ADEQ or LA issued permits and files that are not a part of these delegated Functions and Duties but are important for ADEQ and LA operations.
10. ADEQ will respond to questions provided by an LA that address permitting actions that impact an LA.

C. PERSONNEL QUALIFICATIONS

The following describes the minimum personnel qualifications that are required for persons performing the Functions and Duties delegated in the table of section A, above. If a qualification is listed in the table of section A, that duty may be performed by a person with that qualification. If multiple qualifications are listed, a person who meets any of those qualifications may perform the duty.

Minimum qualifications must be met by all staff. Existing staff who do not meet the minimum qualifications as of the date of execution of this Agreement may receive an exception by their manager for up to two years.

LA are encouraged to build technical competency within programs. Technical competency improves the protection of human health and the environment. Building technical competency often means hiring staff that have more formal education.

Staff personnel should be supervised by a person with training and experience in the functions and duties being conducted. Staff personnel should also ensure issues are

addressed by those with knowledge and training in the task to be performed. If there are engineering issues that require a professional engineer's review, staff must obtain that review.

Qualifications

1. Duties performed by a Professional Engineer registered in the State of Arizona pursuant to A.R.S. § 32-123 and A.A.C. R4-30-224 as determined by the Board of Technical Registration.
2. Duties performed by an Engineer-in-Training pursuant to A.R.S. § 32-101 and A.A.C. R4-30-222, or a graduate of a four-year engineering degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology or its predecessor organization.
3. Duties performed by a Registered Sanitarian/Environmental Health Sanitarian registered in the State of Arizona pursuant to A.R.S. § 36-136.01 and A.A.C. R9-16-401 et seq.
4. Duties performed by a Professional Geologist registered in the State of Arizona pursuant to A.R.S. § 32-123 and A.A.C. R4-30-244 as determined by the Board of Technical Registration.
5. Duties performed by an Environmental Professional who has a four-year degree in a field related to their duties, and training and/or experience in the duties to be performed.
6. Duties performed by an Environmental Health Sanitarian Aide as defined in, and with the supervision described in, A.A.C. R9-16-401(11) and -403.
7. Duties performed by an Environmental Technician who has training and/or experience in the duties to be performed, only after efforts have been made to hire candidates with a four-year degree in a related field. An associate's degree or higher is preferred. An Environmental Technician performs basic analysis and tests, under the supervision of a Registered Sanitarian or P.E.

D. LOCAL FEE AUTHORITY

An LA may have authority to enact fees for delegated Functions and Duties, which is different from ADEQ's fee authority.

E. AGENCY CONTACT PERSONS

The following LA employee is responsible for administering the delegated Functions and Duties pursuant to this Appendix and is the contact person when ADEQ must provide

notice to the LA. The LA employee is responsible for distributing any notice received to other staff and managers. The LA shall provide written notice to ADEQ of any successor.

Title: Director
Address: Apache County
Apache County Public Health Services District
75 West Cleveland Street (2nd Floor)
PO Box 697
St. Johns, AZ 85936
Telephone:

The following ADEQ employees are responsible for administering the Functions and Duties pursuant to this Appendix. ADEQ shall provide written notice to the LA of any successor.

Approvals of Drinking Water Systems

Manager: ADEQ Drinking Water Engineering Review
Telephone: (602) 771-4648

Drinking Water, Compliance and Enforcement

Manager: ADEQ Drinking Water Compliance & Inspections Unit
Telephone: (602) 771-4253

Approvals of On-Site Wastewater Treatment Facilities, Sewage Collection Systems, Subdivisions, Swimming Pools and Private Residential Gray Water

Manager: ADEQ Groundwater and Reuse Permits
Telephone: (602) 771-6723

Groundwater & Reuse Compliance and Enforcement

Manager: ADEQ Groundwater & Reuse Compliance and Enforcement
Telephone: (602) 771-4479

The naming of a successor to any of the above-named individuals shall not require the re-execution of or an amendment to this Agreement.

**Signature Page
for
Apache County Delegation Agreement #EV24-0013**

Apache County Public Health Services District

County Manager Date

County Board of Supervisors

Chairman Date

Attest:

Clerk of the Board Date

Arizona Department of Environmental Quality

Waste Programs Division Director Date

Arizona Department of Environmental Quality

Water Quality Division Director Date