

APPENDIX D

To

#ADEQ16-128212

Amendment to Delegation Agreement No. EV12-0057

**Relating to Certification of Emission Reduction Credits
Between Arizona Department of Environmental Quality and Maricopa County,
Administered by its Air Quality Department**

Amendment to Delegation Agreement No. EV12-0057
Between the
Arizona Department of Environmental Quality
And
Maricopa County

Whereas, the Arizona Department of Environmental Quality (ADEQ) and Maricopa County wish to amend Delegation Agreement #EV12-0057 (the “Agreement”) and add an Appendix D (the “Amendment”) relating to certification of emission reduction credits to the Agreement.

The purpose of this Amendment to the Delegation Agreement is for ADEQ to delegate to MCAQD its authority to certify emission reduction credits for traditional (permitted) and nontraditional (non-permitted) sources within Maricopa County

Whereas, Arizona Revised Statutes (A.R.S.) § 11-951 et seq. authorize public agencies to enter into agreements for joint cooperative action, as prescribed. ADEQ and Maricopa County are “public agencies” as defined at A.R.S. § 11-951;

Whereas, A.R.S. §§ 41-1001 and 41-1081 through 1084 authorize state agencies to enter into delegation agreements, as prescribed;

Whereas, A.R.S. § 49-410(C) authorizes ADEQ to delegate the certification of emission reduction credits to counties;

Whereas, A.R.S. § 49-107(A) allows ADEQ to delegate any functions, powers or duties that ADEQ believes can be competently, efficiently, and properly performed by the local agency if the local agency accepts the delegation and agrees to perform the delegated functions, powers and duties according to the standards of performance required by law and prescribed by ADEQ;

Whereas, A.R.S. § 11-201(A)(3) empowers Maricopa County Board of Supervisors (BOS or Board) to contract on behalf of Maricopa County and to delegate the power to contract to MCAQD as agents and officers acting under the Board’s authority and authority of law; and,

Whereas, A.R.S. § 49-471(6) establishes the executive head of MCAQD as the “Control Officer” authorized by the BOS pursuant to A.R.S. § 49-473 to enforce County Air Pollution Control regulations, codified at A.R.S. Title 49, Chapter 3, Article 3 (A.R.S. §§ 49-471 through 49-516) (County Air Pollution Control Regulations) and is the appropriate local agency to accept delegation of ADEQ’s authority to certify emission reduction credits.

Therefore, pursuant to section N(1) of the Agreement, A.R.S. §§ 11-201(A)(3), 49-107, and 41-1081, the undersigned parties agree to amend the Agreement to add MCAQD as a party and to include in the Agreement the following Appendix D relating to certification of emission reduction credits. For the purposes of Appendix D, MCAQD is the LA.

Pursuant to section N(2) of the Agreement, the Effective Date of this Amendment shall be 30 days after written notice of ADEQ’s final decision to amend this Agreement and approval by all parties. This Amendment will remain in effect from the Effective Date until terminated by the Parties under section O of the Agreement or the Agreement’s expiration on June 30, 2050.

Appendix D
To Delegation Agreement No. EV12-0057
Maricopa County
Air Quality Management

A. DELEGATED JURISDICTION AND RESPONSIBILITIES:

1. ADEQ delegates to the LA all functions, powers, and duties provided under A.R.S. § 49-410, A.A.C. Title 18, Ch. 2, Art. 12, regulation, policy, and guidance related to the certification of emission reduction credits in Maricopa County. This delegation consists of the terms below, collectively referred to as “the Delegation”:
 - a. Pursuant to A.R.S. § 49-107, ADEQ delegates to the LA the authority to adopt, observe, and enforce ADEQ’s emission reduction credit regulations.
 - b. ADEQ delegates to the LA the authority to evaluate applications to assess the appropriateness for certification as an emissions reduction credit.
 - c. ADEQ delegates to the LA the authority to collect fees so that MCAQD may accomplish the Delegation. Fees collected, if any, will be pursuant to the Fees section in this Agreement.
 - d. As a supplement to any independent statutory authority the LA may have, ADEQ delegates to the LA the enforcement authorities pursuant to A.R.S. § 49-513 as applicable to the Delegation.
 - f. Pursuant to A.R.S. § 49-106, nothing in this Amendment shall be construed as ADEQ limiting the LA’s authority to adopt ordinances and rules within its respective jurisdiction if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of ADEQ. Nor does this Amendment grant the LA any authority not stated in the Agreement and not otherwise provided by separate state law.

B. RESERVED JURISDICTION AND RESPONSIBILITIES:

This Amendment does not preclude ADEQ from asserting jurisdiction over any source pursuant to A.R.S. § 49-402(B). Furthermore, ADEQ retains the authority to register the deposit, transfer and use of emission reduction credits and administer the voluntary Arizona emissions bank pursuant to A.R.S. § 49-410(C).

C. PERSONNEL QUALIFICATIONS:

The following minimum personnel qualifications shall apply to personnel performing the delegated Functions and Duties listed in Subpart A of this Appendix:

1. Duties may be performed by, or under the direct supervision of, an engineer qualified through air quality permitting experience.

D. STANDARDS OF PERFORMANCE:

The LA will carry out the Delegation in accordance with the following terms, collectively defined as “Standards of Performance”:

1. The LA will meet at least the minimal requirements and standards applicable to the Delegation as established under the Clean Air Act, ADEQ statutes and rules, including A.R.S. § 49-410 and A.A.C. Title 18, Ch. 2, Art.12, and County Air Pollution Control Regulations.

E. RECORD KEEPING REQUIREMENTS:

1. Unless otherwise required by law or Arizona State Archives retention schedules, the Parties shall retain, in paper or electronic format, all data, books, accounts, reports, files, documents, permit applications, emission reduction credit applications (Records) relating to this Amendment and performance of the Delegation in accordance with the Maricopa County Air Quality Department Custom Records Retention Schedule CS-1062. The Parties shall have full access to, and the right to examine, copy, and make use of all records relevant to this Amendment.
2. The Parties shall not disclose any information that is exempt from disclosure under Arizona law.

F. AGENCY CONTACT PERSONS:

The following LA employee is responsible for administering the delegated Functions and Duties as specified in this Appendix. The LA shall provide written notice to ADEQ of any successor.

Name: Philip McNeely
Title: Director
Agency: Maricopa County Air Quality Department
Address: 3800 North Central Avenue, Suite 1400
Phoenix, AZ 85012
Phone: 602-506-6443
Email: PHILIP.McNEELY@Maricopa.gov

The following ADEQ employee is responsible for administering the delegated Functions and Duties as specified in this Appendix. ADEQ shall provide written notice to the LA of any successor.

Name: Daniel Czecholinski
Title: Director, Air Quality Division
Agency: Arizona Department of Environmental Quality
Address: 1110 West Washington Street
Phoenix, AZ 85007
Phone: 602-771-4684
Email: cszecholinski.daniel@azdeq.gov

The naming of successor to either of the above-named individuals shall not require the execution of an amendment to the Agreement.

**Signature Page for
Maricopa County Amendment to Delegation Agreement No. EV12-0057**

The undersigned executing this Amendment on behalf of each Party represent and warrant that he/she is duly authorized to execute and deliver this Amendment on behalf of each Party and that this Amendment is binding on said Party in accordance with its terms. Parties hereto have executed this Amendment as of the date set forth below.

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY




Daniel Czecholinski, Director
Air Quality Division

1/20/2021

Date

MARICOPA COUNTY: A political subdivision of the State of Arizona for and on behalf of the Maricopa County Air Quality Department



Clint Hickman, Chair
Maricopa County Board of Supervisors for Maricopa County

12/3/2020

Date



Philip McNeely, Director
Maricopa County Air Quality Department

12/2/2020

Date



Darcy Kober, Director
Maricopa County Environmental Services Department

12/2/2020

Date

Attest by: 

Fran McCarroll, Clerk of the Board
Maricopa County

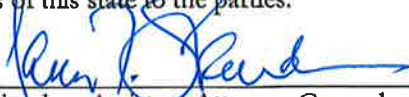
12/3/2020

Date

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APPROVED AS TO FORM


Undersigned counsel has reviewed the foregoing modification pursuant to A.R.S. §§ 11-251, 11-201 and 11-952 and determined it is in proper form and within the powers and authority granted under the laws of this state to the parties.



James Skardon, Assistant Attorney General
Attorney for Arizona Department of Environmental Quality

12/4/20

Date



Talia J. Offord, Senior Deputy County Attorney
Attorney for Maricopa County

11/2/20

Date