AMENDMENT NUMBER 1

To Delegation Agreement

Between

Arizona Department of Environmental Quality

and

Cochise County Department of Health and Social Services

Delegation Agreement #00-0032

The delegation agreement between the Arizona Department of Environmental Quality and the Cochise County Department of Health and Social Services, #00-0032, is amended by replacing the original text and appendices with the following:

Whereas A.R.S. §49-107, authorizes the Director of the Arizona Department of Environmental Quality (ADEQ) to delegate to a local environmental agency, health department or municipality or county board of health established under Title 36, Chapter 1, Article 3, any functions, powers, and duties which the Director believes can be competently, efficiently, and properly performed by the local agency, and

Whereas Cochise County Department of Health and Social Services is a local agency (hereinafter referred to as LA) as set forth in A.R.S. §49-107, and

Whereas the LA is required by A.R.S. §49-106 to enforce and observe rules adopted by ADEQ and laws of the State of Arizona pertaining to the preservation of public health and protection of the environment, and

Whereas A.R.S. §11-201(A)(3) and A.R.S. §11-952 authorize the County Board of Supervisors (and by delegation the LA, where LA is a county agency) to enter into contracts as necessary to assist LA in exercising its powers, and

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

Therefore, the Director of ADEQ delegates to the LA, and the LA agrees to accept the delegation of authority to perform those functions and duties described in the Appendices (Appendix A for Wastewater and Drinking Water Delegations, Appendix B for Solid Waste Delegations) of this Agreement on behalf of ADEQ and in accordance with the terms and conditions contained herein.

A. DELEGATED FUNCTIONS, POWERS AND DUTIES

1. The functions, powers and duties that are delegated by this Agreement are identified in Sections A through P, and in Appendices A and B. All functions, powers and duties not specifically delegated in this Agreement are retained by ADEQ.

B. STANDARDS OF PERFORMANCE

1. The standards of performance required to adequately perform the delegated functions, powers and duties and fulfill the terms of the agreement are the same as those expected of ADEQ personnel. ADEQ policies and guidance should be used in implementing the delegated functions. ADEQ's program specific performance expectations are identified in the Appendices.

2. ADEQ shall provide LA with periodic training. LA personnel will be invited to attend ADEQ internal compliance and enforcement training, which will be offered at least twice during an annual year. ADEQ will provide operating guidance for use in implementing the terms of this Agreement within 90 days after execution of this Agreement. New or updated guidance will be provided to LA within 30 days after the effective date of the guidance. The guidance will, at a minimum, include ADEQ Engineering Bulletins, ADEQ program guidance memoranda, substantive policy statements including rule clarifications, copies of all applicable forms, policies and procedures, and other material that may assist the LA in making decisions necessary to carry out the functions, powers and duties contained in this Agreement. LA should contact ADEQ for clarification or guidance on procedural or technical issues. In the event of any dispute between LA and a third party regarding LA's interpretation or application of ADEQ regulations, bulletins, guidelines, or other published materials, ADEQ shall upon request by LA, provide timely assistance and direction to LA.

C. TYPES OF FEES

1. To the extent permitted by law, ADEQ delegates fee setting authority for delegated programs. Any fees imposed by LA shall be limited to the cost of service, including all direct and indirect costs. Fees are authorized by, and shall conform to the requirements of A.R.S. §11-251.08, A.R.S. §49-112, A.R.S. §36-187 (if LA is a county health agency); A.R.S. §49-104(B)(7), 49-104(B)(13), 49-203(A)(7), 49-361(2), 49-362(A)(7), A.A.C. Title 18, Chapter 14, Article 1 (water quality fees); A.R.S. §49-480 (for air quality fees); A.R.S. §49-765 (for solid waste license fees).

2. All fees collected by LA pursuant to this section shall be retained by the LA in consideration for performing the functions described in this agreement.

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

1. The required personnel qualifications for exercising the delegated functions, powers and duties are identified in Appendix A for Wastewater and Drinking Water Delegations and Appendix B for Solid Waste Delegations.

E. RECORD KEEPING AND REPORTING REQUIREMENTS

1. LA agrees to prepare and maintain records relating to the performance of the activities specified in this Agreement, for a period of five years, from the date of expiration, termination or cancellation of this Agreement or from the date of complete resolution of any dispute and any applicable appeals unless a longer period is required by statute or rule.

2. LA shall submit reports on the LA's delegated wastewater and drinking water activities to ADEQ in accordance with Appendix A.

3. LA shall on a quarterly basis, report to ADEQ on any solid waste inspections conducted and enforcement actions taken by submitting two copies of each notice of opportunity to correct, notice of violation, administrative order, civil or criminal action initiated under this agreement: one report shall be sent to the ADEQ Central office contact person listed in Appendix B and one to the ADEQ Regional Office, if applicable.

F. OVERSIGHT ACTIVITIES

1. Because ADEQ retains ultimate responsibility for LA's activities under this agreement, ADEQ reserves the right to accompany LA personnel on inspections and may review all records relating to the performance of the activities set forth in this Agreement. Where practicable, ADEQ will provide prior notice to LA of its intent to accompany LA employees on inspections. Upon pre-notification and ADEQ approval, LA representatives may accompany ADEQ inspectors on inspections for purposes of training, information sharing or to coordinate LA and ADEQ activities.

2. At least once during the term of this delegation agreement, each ADEQ delegating program shall conduct an evaluation of the delegated responsibilities. More frequent evaluations may be undertaken at the request of either party to this Agreement. The draft results of all program evaluations shall be in writing and shall be communicated to the LA in draft. LA shall be entitled to comment on the draft report. After response to comments, ADEQ shall finalize the report and transmit copies to LA and the ADEQ Government Agreements Officer. The results of all program evaluations are public documents pursuant to A.R.S. §39-121 et seq.

3. If the transfer of funds from ADEQ to the LA occurs under section G.10, ADEQ shall conduct a financial audit of the LA's use of these funds at least once every two years. Audits shall be conducted in accordance with generally accepted accounting principles.

G. DELEGATION OF ENFORCEMENT AUTHORITIES; LOCAL AGENCY OBLIGATIONS

1. In carrying out its duties under this Agreement, LA shall comply with the provisions of A.R.S. §§49-106, §49-112, 36-186.3 (if LA is a county health agency) and observe and enforce the rules of ADEQ and laws of the State of Arizona pertaining to the preservation of public health and protection of the environment, to the extent delegated in this agreement.

2. LA is hereby delegated the enforcement authorities set forth in A.R.S. §§ 44-1307, 44-1324, 49-141-42, 49-261-62, 49-354 A-B, 49-460-63, 49-781-83, 49-791, 49-810-12, 49-922.B, 49-923-24, as applicable to the functions and duties delegated in this agreement. The LA shall be responsible for initiating timely and appropriate enforcement actions against individuals and facilities to resolve violations of statutes and rules delegated in this Agreement. LA agrees to the extent practicable, to make compliance determinations and conduct enforcement actions in accordance with ADEQ's Compliance and Enforcement Policy or guidance provided by ADEQ . The LA shall use inspection checklists and boilerplate documents provided by ADEQ or which contain the same content as those provided by ADEQ. ADEQ retains its authority to take enforcement action against any individual, facility or violator covered by this Agreement or, at its discretion, to refrain from exercising such authority if enforcement action taken by LA is timely, appropriate and effective. Except in a case involving an imminent health hazard (i.e. an immediate threat to the public health, safety or environment), ADEQ agrees to give LA 30 days written notice of its intent to initiate an enforcement action if LA fails to do so. In cases involving imminent health hazards, ADEQ will notify LA prior to undertaking such an enforcement action.

3. When conducting enforcement actions using the delegated functions, powers and duties, LA shall conduct administrative hearings in accordance with Office of Administrative Hearings, Rules of Procedure, A.A.C. R2-19-101 et seq. and the Arizona Administrative Procedures Act, A.R.S. §41-1001 et seq. LA shall use administrative law judges provided by the Office of Administrative Hearings or where such judges are not available, LA shall use hearing officers approved by the ADEQ Director. If an OAH administrative law judge is used in an administrative hearing, ADEQ will pay for any OAH hearing related costs. LA's County Attorney shall represent LA at all administrative hearings. Where appropriate, and if there is no conflict with applicable environmental laws and rules, LA may conduct enforcement

action using the authority provided by A.R.S. Title 36. Nothing herein shall preclude LA from independently initiating enforcement action pursuant to its own authority under A.R.S. 36-602 to 603, 49-143 to 144 or any other civil or criminal statute or local ordinance.

4. In those cases where the Attorney General has exclusive authority to bring an action to collect civil penalties, ADEQ shall timely notify the Attorney General of LA's intent to initiate enforcement and such enforcement shall be coordinated among LA, ADEQ, the Attorney General and LA's County Attorney.

5. In all other cases of civil enforcement, the LA and ADEQ shall coordinate litigation and settlements. LA and ADEQ shall act as co-plaintiffs when possible to maximize resources.

6. In cases where LA and ADEQ are co-plaintiffs, civil penalties collected pursuant to A.R.S. §49-201 et seq., A.R.S. §49-351 et seq., A.R.S. §49-421 et seq., and A.R.S. §49-901 et seq. shall be deposited in the State General Fund. 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.

7. In cases brought pursuant to A.R.S. §49-201 et seq., A.R.S. §49-351 et seq., A.R.S. §49-421 et seq., and A.R.S. §49-901 et seq., the LA shall forward all penalties it collects to ADEQ. ADEQ shall transmit these penalties to the State Treasurer for deposit in the State General Fund. In all other cases in which the LA has received ADEQ's authority to commence an action or has independent enforcement authority, LA may retain all penalties it collects.

8. ADEQ may periodically develop and implement compliance initiatives directed at certain classes of violations or facilities that are in violation of applicable rules. ADEQ will provide LA with at least 30 days written notice of a compliance initiative. LA agrees that, when such initiatives involve facilities that have been delegated, it will, to the best of its ability, assure the successful implementation of such strategies as they relate to such facilities. With 30 days notice to the LA, ADEQ may implement such strategies directly for delegated facilities whenever it determines that the LA is unable or unwilling to implement them in a timely manner.

9. The provisions of A.R.S. § 41-1009 are not applicable to inspections conducted by the LA pursuant to this agreement.

10. ADEQ may transfer funds to LA to carry out the purposes of this Agreement.

H. DELEGATION OF SOLID WASTE STATUTES

1. LA is delegated the functions, powers, and duties for the following solid waste inspection statute for which rules are not currently in effect: A.R.S. §49-763.

I. LICENSING TIME FRAMES

1. The LA agrees to comply with the time frames set forth in A.A.C. R18-1-525 when issuing licenses delegated under this Agreement. The LA shall base its licensing decision only on those program elements listed in the Arizona Revised Statutes or in the Arizona Administrative Code. The LA will provide a monthly report to ADEQ indicating the number of permits or licenses issued that month, by general type of permit, and the time period for the licensing decision. ADEQ shall make these reports available to the public at its main office. If the LA fails to meet a licensing time frame, the monthly report shall indicate the reason(s) why the time frame was missed and the corrective action the LA has applied. If the LA does not meet the licensing time frames set forth in A.A.C. R-18-1-525 for three consecutive months, ADEQ will meet with the LA to determine the reasons why the LA cannot meet the licensing time frames. If the LA continues to not meet the licensing time frames for six consecutive months, ADEQ shall rescind delegation of those programs the LA cannot perform.

2. The LA shall submit the monthly reports on licensing time frames to whomever at ADEQ is designated to receive reports for the specific functions and duties described elsewhere in this delegation agreement.

J. APPEALS OF FINAL DECISIONS CONCERNING TYPE 4 GENERAL AQUIFER PROTECTION PERMIT LICENSES FOR ON-SITE WASTEWATER TREATMENT FACILITIES ISSUED BY THE DELEGATED AGENCY

1. The LA shall ensure that either an administrative appeal ordinance or a board of supervisors appeal policy is adopted and implemented for all LA final decisions concerning septic tank systems and alternative on-site disposal system licenses issued by the LA. At a minimum, the appeals process shall include notification to each applicant for a license or permit that an appeals process exists; that the applicant may file an appeal within 30 days of notification of an adverse decision; that within 10 business days after the LA receives the request for an appeal, the LA will appoint either an administrative law judge, a hearing officer or a designated body to hear the appeal; that once appointed, the person or designated body hearing the appeal shall schedule the appeal within 10 business days, and the appeal shall be heard not later than 30 days after the receipt of the request for an appeal. The appellant shall be given at least 10 business days notice of the time when the appeal will be heard, unless the

appellant agrees to a shorter time period. If the person or body designated to hear the appeal grants or denies the relief requested, either the appellant or the LA may file, within 30 days after the decision, a complaint in superior court. The LA shall annually provide ADEQ a report of appeals filed and their final resolution. The LA shall adopt an appeals process within 30 days of the effective date of this agreement.

K. DELEGATION TO OTHER LOCAL AGENCIES AND SUBDELEGATION

1. Where a municipality is the LA for delegated programs within its municipal boundaries, it has exclusive authority to conduct such delegated program activities within its boundaries. ADEQ's delegation to a municipality shall in no way infringe upon, reduce or usurp a county's right, authority and responsibility to carry on its own independent activities and programs . ADEQ will supply a delegated county health or environmental agency with a copy of any delegation agreement that it executes with a municipality located within that county. In counties that have their own health and environmental codes which cover matters delegated to a municipality by ADEQ, it is agreed that such municipal delegation will be executed jointly by ADEQ and the delegated county health or environmental agency.

2. LA may only subdelegate the functions powers and duties delegated pursuant to this Agreement to another local government agency or political subdivision with the prior written approval of ADEQ. Written approval may be provided by the Director, Deputy Director or appropriate Division Director.

L. CONFLICT RESOLUTION PROCEDURES

1. Should a conflict arise between the parties to this Agreement, resolution shall be through arbitration by a mutually acceptable third party. Each party shall bear its own arbitration fees, attorney's fees and costs. The decision of the arbitrator is final and binding upon the parties.

M. AMENDMENT PROCEDURES

1. Either party at any time may initiate an amendment to this Agreement. An amendment shall be in writing, shall be executed by the Director of ADEQ, the Director of the LA, the Chairman of the LA’s Board of Supervisors, the Clerk of the Board of Supervisors and shall be approved as to form by the Attorney General and the LA’s County Attorney. Amendments shall be filed with the Secretary of State and the Cochise County Recorder’s Office. Amendments shall be effective on the date of filing with the Secretary of State.

N. TERMINATION AND SUSPENSION PROCEDURES

1. This Agreement may be terminated or suspended in whole or in part by either party, upon providing 30 days advance written notice by certified mail to the other party.

2. The LA shall, prior to the termination of all or part of this Agreement, forward to the ADEQ Director all files, public documents or pending applications received by the LA for those functions, powers, and duties being terminated, a summary status report of those functions, powers, and duties, and shall provide written notification to all persons with pending applications and to all regulated facilities affected by such termination.

3. The cancellation provisions of ARS Section 38-511, the terms of which are hereby incorporated herein, shall apply to this Agreement.

O. TERM OF AGREEMENT

1. The effective date of this Agreement is the date of filing of this Agreement with the Secretary of State. The expiration date of this Agreement is June 30, 2006. In the event a new Agreement is not executed by that date, this Agreement may be extended by mutual agreement of both parties by filing an amendment in accordance with the provisions of A.R.S. § 41-1081.

P. NAME AND ADDRESS OF PRIMARY CONTACT PERSONS

1. Steven J. Burr
   Special Counsel
   Arizona Department of Environmental Quality
   3033 N. Central Avenue
   Phoenix, Arizona 85012
   (602) 207-4251

2. Diane Carper
   Director
   Cochise County Health and Social Services Department
   1415 West Meldoy Lane, Building A
   Bisbee, AZ 85603
   520 432-9472

Appendix A
Cochise County
Water Quality Management

A. Delegated Responsibilities:

The LA agrees to perform those water quality management functions and duties which are designated by an "X" in the first column of the following table. Applicable rules include those that authorize the described activities and those that are to be implemented and enforced during the conduct of those activities.

Dele-gated?	Functions and Duties	Applicable Rules	Personnel Qualifi-cations	Standards of Performance
X	1. General functions and duties pertaining to the administration of Type 1 and Type 4 General Aquifer Protection Permits delegated to the LA pursuant to this table.	A.A.C. R18-9-101, 105(C) and 110; R18-9-A301(A)(1), (A)(4), (B) and (D); R18-9-A302 through A306, A308, A309 except subsection (E), and A310 through A316.	C1, C2, C3, C4*, C5*, C6*, C7*	D1.1 - D1.5; D3.1 - D3.8
X	2. Complaint response, compliance assistance, and compliance and enforcement responsibilities for the following Type 1 General Aquifer Protection Permits: 1.07 Dockside facilities and watercraft 1.08 Earth pit privy 1.09 Sewage treatment facility with a flow less than 20,000 gallons per day operating under a general permit before January 1, 2001. (LA's delegated authority is limited only to on-site wastewater treatment facilities with a flow less than 2000 gallons per day).	R18-9-B301(G), (H) and (I)	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5
X	3. Review and approval of the 4.02 General Aquifer Protection Permit for a Septic Tank System with Disposal by Trench, Bed, Chamber Technology, or Seepage Pit with a design flow of less than 3000 gallons per day	A.A.C. R18-9-E302	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5; D3.1 - D3.8

Dele-gated?	Functions and Duties	Applicable Rules	Personnel Qualifi-cations	Standards of Performance
X	4. Compliance and enforcement responsibilities for the 4.02 General Aquifer Protection Permit for a Septic Tank System with Disposal by Trench, Bed, Chamber Technology, or Seepage Pit with a design flow of less than 3000 gallons per day	A.A.C. R18-9-A308; R18-9-E302; and related provisions indicated in Item #1	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5; D3.1 - D3.8
	5. Review and approval of indicated 4.03 through 4.22 General Aquifer Protection Permits for On-Site Wastewater Treatment Facilities with a design flow of less than 3000 gallons per day: ~~4.03 Composting toilet~~ ~~4.04 Pressure distribution system~~ ~~4.05 Gravelless trench~~ ~~4.06 Natural seal evapotranspiration bed~~ ~~4.07 Lined evapotranspiration bed~~ ~~4.08 Wisconsin mound~~ ~~4.09 Engineered pad system~~ ~~4.10 Intermittent sand filter~~ ~~4.11 Peat filter~~ ~~4.12 Textile filter~~ ~~4.13 RUCK® system~~ ~~4.14 Sewage vault~~ ~~4.15 Aerobic system with subsurface disposal~~ ~~4.16 Aerobic system with surface disposal~~ ~~4.17 Cap system~~ ~~4.18 Constructed wetlands~~ ~~4.19 Sand lined trench~~ ~~4.20 Disinfection devices~~ ~~4.21 Sequencing batch reactor~~ ~~4.22 Subsurface drip irrigation~~ (Authorization is granted for those general permits that are not stricken.)	~~A.A.C. 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~~ ~~R18-9-E313~~ ~~R18-9-E314~~ ~~R18-9-E315~~ ~~R18-9-E316~~ ~~R18-9-E317~~ ~~R18-9-E318~~ ~~R18-9-E319~~ ~~R18-9-E320~~ ~~R18-9-E321~~ ~~R18-9-E322~~	C1, C2, C3, C4*, C5*, C6*	D1.1 - D1.5; D3.1 - D3.8
	6. Compliance and enforcement responsibilities for 4.03 through 4.22 General Aquifer Protection Permits for On-Site Wastewater Treatment Facilities with a design flow of less than 3000 gallons per day if authorized under #5	A.A.C. R18-9-A308; regulatory citations for general permits authorized in Item#5; and related provisions indicated in Item #1	C1, C2 ,C3, C4, C5, C6	D1.1 - D1.5; D3.1 - D3.8

Dele-gated?	Functions and Duties	Applicable Rules	Personnel Qualifi-cations	Standards of Performance
	7. Review and approval of the 4.23 General Aquifer Protection Permit for On-Site Wastewater Treatment Facilities with a design flow from 3000 to less than 24,000 gallons per day (limited to expansions of designs allowed under the 4.02 General Aquifer Protection Permit)	A.A.C. R18-9-E323	C1, C2, C3, C4*, C5*	D1.1 - D1.5; D3.1 - D3.8
	8. Compliance and enforcement responsibilities for the 4.23 General Aquifer Protection Permit for On-Site Wastewater Treatment Facilities with a design flow from 3000 to less than 24,000 gallons per day (limited to expansions of designs allowed under the 4.02 General Aquifer Protection Permit)	A.A.C. R18-9-A308; R18-9-E323; regulatory citations for general permits authorized in Item #4; and related provisions indicated in Item #1	C1, C2, C3, C4, C5, C6	D1.1 - D1.5; D3.1 - D3.8
	9. Review and approval of the 4.01 General Aquifer Protection Permit for Sewage Collection Systems	A.A.C. R18-9-E301	C1, C2, C3, C4*, C5*	D1.1 - D1.5; D3.1 - D3.8
	10. Compliance and enforcement responsibilities for the 4.01 General Aquifer Protection Permit for Sewage Collection Systems	A.A.C. R18-9-A308; R18-9-E301; and related provisions indicated in Item #1	C1, C2, C3, C4*, C5*, C6*	D1.1 - D1.5; D3.1 - D3.8
X	11. Complaint response and compliance assistance for private residential Gray Water Systems authorized by the Type 1 Reclaimed Water General Permit	A.A.C. R18-9-701, 708(A), 709(A)(1), and 711	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5; D6.1
	12. Review and approval of Sanitary Facilities for Sub-Divisions	A.A.C. R18-5-401 through 410	C1, C2	D1.1 - D1.5; D4.1 - D4.3
	13. Enforcement of rules governing Sanitary Facilities for Sub-Divisions	A.A.C. R18-5-401 through 411	C1, C2, C3, C4, C5, C6	D1.1 - D1.5; D4.1 - D4.3
	14. Issuance of Approval to Construct and Final Approval of Construction for Public Drinking Water Facilities	A.A.C. R18-4-101, 102, 115, 119, 220 through 223, 301 through 304, 501 through 509	C1, C2, C3**	D1.1 - D1.5; D2.1 - D2.5
	15. Operation & Maintenance Compliance Inspections of Public Drinking Water Systems for systems with surface water treatment and for all other systems serving more than 50,000 people	A.A.C. R18-4-101, 102, 103, 104, 112, 113, 114, 115, 116, 118, 119, 122, 123, 124, 125	C1, C2	D1.1 - D1.5; D2.4 - D2.5

Dele-gated?	Functions and Duties	Applicable Rules	Personnel Qualifi-cations	Standards of Performance
	16. Operation & Maintenance Compliance Inspections of Public Drinking Water Systems using only groundwater and serving less than 50,000 people	A.A.C. R18-4-101, 102, 103, 104, 112, 113, 114, 115, 116, 118, 119, 122, 123, 124, 125	C1, C2, C3, C5, C6	D1.1 - D1.5; D2.1 - D2.5
	17. Monitoring & Reporting Compliance Determinations for Delegated Public Drinking Water Systems	A.A.C. R18-4-101 through 107, 109, through 113, 117, 120, 125, R18-4-201 through 223	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5; D2.5
	18. Enforcement of Delegated Drinking Water Rules Governing Construction Approvals and Operation & Maintenance Requirements Public Drinking Water Systems	A.A.C. R18-4-121	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5; D2.1 - D2.5
	19. Enforcement of Delegated Drinking Water Rules Governing Monitoring and Reporting Requirements Public Drinking Water Systems	A.A.C. R18-4-121	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5; D2.4 - D2.5
	20. Issuance of Approval to Construct and Final Approval of Construction for Public and Semipublic Swimming Pools	A.A.C. R18-5-201 through 250	C1, C2, C3	D1.1 - D1.5; D5.1 - D5.3
	21. Enforcement of Rules Governing the Design and Construction of Public and Semipublic Swimming Pools	A.A.C. R18-5-201 through 251	C1, C2, C3, C4, C5, C6, C7	D1.1 - D1.5; D5.3

* Excludes Public Works as defined in A.R.S. §32-142 and wastewater facilities which cost more than $12,500.
**Excludes Public Works as defined in A.R.S. §32-142 and drinking water projects which cost more than $12,500.

B. Exceptions and Special Provisions

1. 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.

2. Functions, powers and duties of ADEQ related to the following are NOT delegated:

   a. Those pertaining to drinking water and wastewater facilities owned by the federal government or the State of Arizona, those owned or operated by the LA, or those owned or operated by districts subject to the control of the LA, unless as otherwise mutually agreed upon. 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 of the facility.

b. Those relating to facilities financed, either wholly or in part, with federal construction grant funds.

3. Final approval of any drinking water facility or sewage collection system designed by or for the LA, or for capital improvement projects, is NOT delegated to the LA. This exception does not prohibit or otherwise affect later assignment or transfer to the LA of a drinking water facility or sewage collection system approved by the LA.

4. ADEQ and LA agree to co-inspect wastewater facilities, where feasible, including those subject to Individual Aquifer Protection Permit and federal NPDES permit requirements, for training and coordination purposes.

5. ADEQ will maintain a list of approved products for on-site wastewater treatment facilities in accordance with A.A.C. R18-9-A309(E) and will retain the responsibility to process all product approval determinations in connection with the list.

C. Personnel Qualifications:

Subject to Standard of Performance D1.3, the functions and duties listed in Section A of this Appendix shall be performed by individuals with the following minimum personnel qualifications. Where more than one category of personnel qualifications is listed in Appendix A, the personnel may qualify under any of the categories listed.

Duties shall be performed by:

1. A Professional Engineer registered in the State of Arizona with at least 4 years experience in Sanitary Engineering or a closely related field (equivalent of ADEQ Environmental Engineer position)

2. An individual who is capable of being an Engineer-in-Training Candidate (A.A.C. R4-30-222) under the State Board of Technical Registration (equivalent of ADEQ Engineering Aide position), and who is directly Supervised by a Professional Engineer registered in the State of Arizona with at least 4 years experience in Sanitary Engineering or a closely related field.

3. A Registered Sanitarian (A.A.C. Title 9, Chapter 16, Article 4 and A.R.S. §36-136.01) with at least 4 years applicable service, or the equivalent of an ADEQ Environmental Program Specialist with 4 years applicable experience, either of whom is directly supervised by a Professional Engineer registered in the State of Arizona with at least 4 years experience in Sanitary Engineering or a closely related field.

4. An individual who is capable of being an Engineer-in-Training candidate under the State Board of Technical Registration (A.A.C. R4-30-222) (equivalent of ADEQ Engineering Aide position) or a Registered Sanitarian with 4 years applicable experience.

5. A Registered Sanitarian with 4 years applicable experience.

6. A Sanitarian Aide or Sanitarian-In-Training (A.A.C. R9-16-402) with 2 years education in Public Health, Sanitary Engineering or a closely related field or a Registered Sanitarian who is directly supervised by a Registered Sanitarian with 4 years applicable experience.

7. A Sanitarian Aide with 2 years education in Public Health, Sanitary Engineering or a closely related field or a Registered Sanitarian (equivalent of ADEQ Environmental Health Specialist Series).

D. Standards of Performance:

The LA shall comply with the following standards of performance for applicable licenses and associated functions and duties delegated to the LA as listed in Section A of this Appendix.

General Provisions

1.1. The LA shall perform the reviews for licenses delegated in the table in Section A of this appendix according to applicable time frames specified in A.A.C. R18-1-525, Tables 5, 6, 7, and 10.

1.2. The LA shall not issue an Approval to Construct, Approval of Construction, Provisional Verification of General Permit Conformance, Verification of General Permit Conformance, or Certificate of Approval for Sanitary Facilities for Subdivisions for any project which is not in compliance with ADEQ statutes and rules and any conditions specified in this delegation agreement. The LA may make an exception if the project will bring the facility into compliance or if the facility is on a schedule to achieve compliance, consistent with an approved administrative order or consent decree.

1.3. Whenever a review of plans, specifications, design reports or construction documents by the LA constitutes the practice of engineering, as defined in A.R.S. § 32-101(B)(11), approvals, licenses or other documents that result from such review by the LA shall be prepared by or under the supervision of a professional engineer registered in Arizona whose registration or work experience is consistent with the work approved. Any approval or license resulting from such review shall be signed by the registrant or registrant's designee.

1.4. Accurate file records shall be maintained by the LA for the approval decision including date, basis and stipulations, if any, for all approvals, including those prepared by or under the supervision of a professional engineer registered in Arizona.

1.5. If the project reviewed by the LA involves disposal or discharge of wastewater to a water of the United States, the LA shall direct the applicant to ADEQ (or the U.S. Environmental Protection Agency) for any necessary permits.

Drinking Water Systems

2.1. The LA shall review plans and specifications submitted for new drinking water facilities in conformance with the applicable rules and laws of the State. Plans that comply with applicable requirements may be approved for construction in accordance with A.A.C. R18-4-505. Issuance of Approvals to Construct (ATC) may be processed through the LA's central permit system. ATCs must be denied for proposed facilities for which plans and specifications do not demonstrate that the system can reasonably be expected to comply with the applicable rules.

2.2. The LA shall not issue an Approval of Construction (AOC) unless construction conforms with approved plans and specifications. As needed, the LA may inspect the construction to ensure conformance with approved plans and specifications. In accordance with A.A.C. R18-4-506, any deviation from the approved plans shall be reconciled either by submission of approvable as-built plans to the LA or modification of construction to bring it into conformance with the approved plans.

2.3. The following requirements shall be satisfactorily met before an AOC will be issued by the LA on a newly constructed water supply system, an extension to an existing public water system, or any alteration of an existing public water system that affects its treatment, capacity, water quality, flow, distribution, or operational performance (A.A.C. R18-4-507(B)):

a. A professional engineer, registered in Arizona, or a person under the professional engineer's direct supervision, shall complete a final inspection and submit a Certificate of Completion on a form approved by ADEQ to which the seal and signature of the registrant have been affixed;
b. The construction conforms to approved plans and specifications, as indicated in the Certificate of Completion and all changes have been documented by the submission of record drawings, pursuant to A.A.C. R18-4-508;
c. An operations and maintenance manual has been submitted and approved by ADEQ (or LA) if construction includes a new water treatment facility; and
d. An operator, who is certified by ADEQ at a grade appropriate for each facility, is employed to operate each water treatment plant and the potable water distribution system.

2.4. Operation of a newly constructed water supply shall not begin until an Approval of Construction(AOC) is issued by the LA in accordance with A.A.C. R18-4-507.

2.5. Compliance inspections of public drinking water systems shall be performed at least once every three years, except that facilities using surface water supplies shall be inspected annually.

Inspections shall cover facility operations and maintenance and compliance with applicable regulatory requirements including monitoring, reporting, public notification, operator certification, plan approval and conformance with any existing compliance schedules.

On-Site Wastewater Treatment Facilities and Sewage Collection Systems

3.1. The LA shall incorporate any language provided by ADEQ into the Certification of Compliance section of the Notice of Intent to Discharge (NOI) that relates to licensing time frame requirements for review of the application by the LA. Signature of the Certification of Compliance section by the applicant binds the applicant and the LA to the specified time frames. The LA shall review all submittals within specified time frames for conformance with the procedural and technical requirements established in statute, rule and guidance materials provided by ADEQ, including any ADEQ clarifications of the rule.

3.2. Upon receipt of an NOI, as the initial step of the pre-construction review phase described in A.A.C. R18-9-A301(D)(1), the LA shall review the NOI to determine whether the applicant submitted all required components of the NOI as specified by A.A.C. R18-9-A301(B), R18-9-A309(B), and R18-9-E301 through E323, as applicable. If the LA, as a result of this review, determines that any components are missing, the LA shall notify the applicant in writing of such determination within the time frame for the Administrative Completeness Review established in A.A.C. R18-1-525 and request that the applicant submit the required components within 30 business days or other reasonable period of time. The Administrative Completeness Review time frame is suspended from the time the LA has notified the applicant of any deficiencies until the time the applicant has submitted additional documents to the LA in response to the notification request.(The LA is not required to notify the applicant if the LA determines that all required components of the NOI were submitted).

If the applicant fails to submit the required components of the NOI within the period of time specified by the LA, the LA shall notify the applicant of its decision not to issue a Verification of General Permit Conformance (VGPC) in accordance with A.A.C. R18-9-A301(D)(1)(d).

3.3. If the applicant has submitted all required components of the NOI in accordance with Standard of Performance D.3.2, the LA shall proceed with the the pre-construction review phase described in A.A.C. R18-9-A301(D)(1) by beginning the Substantive Review. The LA shall review the substantive information provided by the applicant to determine if the project complies with General Aquifer Protection Permit requirements. If the LA determines that the project complies with General Aquifer Protection Permit requirements, the LA shall issue a Provisional Verification of General Permit Conformance (PVGPC) through the LA's central permit system in accordance with A.A.C. R18-9-A301(D). The applicant may begin construction of the project upon receipt of the PVGPC.

As needed, during the pre-construction phase, the LA may inspect the site to ensure that the proposed project will conform with applicable rules and laws of the State. If review of a

submitted document or inspection of the site indicates a deficiency, the LA shall notify the applicant in writing of such determination before the end of the pre-construction phase Substantive Review. The LA shall provide the applicant 30 business days or other reasonable period of time to submit additional required information to resolve the deficiencies. The pre-construction phase Substantive Review is suspended from the time the LA has notified the applicant until the time the applicant has submitted additional information to the LA in response to the request

If the applicant fails to submit the required information within the specified period of time or the information received by the LA indicates that the proposed facility cannot reasonably comply with the applicable requirements, the LA shall notify the applicant in writing of its decision not to issue a VGPC in accordance with A.A.C. R18-9-A301(D)(1)(d). (If the LA did not issue a written notice of administrative completeness or deficiencies, the NOI is deemed administratively complete; therefore, the time frame for the LA to complete all pre-construction processing of the application consists of the sum of the pre-construction phase Administrative Completeness Review and pre-construction phase Substantive Review.

3.4. Following issuance of the PVGPC by the LA, the applicant may take up to two years to complete construction. Upon completion of construction, the applicant shall submit required post-construction documentation, which serves notice to the LA to begin the post-construction phase review. The LA shall review the submittal to determine whether all required components were submitted as specified by A.A.C. R18-9-A301(D)(1)(f)(i), R18-9-A309(C), and R18-9-E301 through E323, as applicable. If the LA, as a result of this review, determines that any components are missing, the LA shall notify the applicant in writing of such determination within the time frame for the post-construction Administrative Completeness Review and request that the applicant submit the required components within 30 business days or other reasonable period of time. The Administrative Completeness Review time frame is suspended from the time the LA has notified the applicant of any deficiencies until the time the applicant has submitted the required documents to the LA in response to the notification request.

As needed, the LA may inspect the construction to ensure conformance with the design approved in the PVGPC. If, during construction, changes are made to the approved design that meet the criteria established in A.A.C. R18-9-A301(D)(1)(e)(iii), the LA shall issue the VGPC only if the applicant submits the documentation required by A.A.C. R18-9-A301(D)(1)(e)(iv).

The post-construction phase Substantive Review begins when the LA has determined that all required post-construction documents have been submitted. The LA shall, based on review of submitted documents and any inspections performed by the LA, make the determination to issue the VPGC within the time frame for the post-construction phase Substantive Review. The LA shall follow procedures in A.A.C. R18-9-A301(D)(2) for notifying the applicant of any deficiencies and issuing or denying the VGPC.

3.5. The LA shall review the application based on whether the requirements for Administrative Completeness Review and Substantive Review are met. An application shall not be denied based on the applicant's qualifications unless those qualifications are specifically established in statute or rule for that document (for example, some general permits require that an Arizona-registered Professional sign a Certificate of Completion). The LA shall review the document to determine conformance with procedural and technical requirements established in statute, rule and guidance materials provided by ADEQ. If the document does not meet these requirements, the LA shall use the mechanisms provided in the Administrative Completeness Review and Substantive Review processes to notify the applicant of deficiencies in the document. The LA shall notify the applicant if the LA believes that the provisions of the Arizona Board of Technical Registration require submittal of any document by an Arizona-registered Professional Engineer or Registered Geologist.

3.6. The LA is authorized to issue a PVGPC and a VGPC for an on-site wastewater treatment facility with a design flow of less than 3000 gallons per day provided all components of the treatment and disposal works of the facility are covered by one or more than one General Aquifer Protection Permit listed in Section A of this appendix. If Section A of this appendix delegates General Permit 4.23 (A.A.C. R18-9-E323) to the LA, the LA is authorized to issue a PVGPC and a VGPC for an on-site wastewater treatment facility with a design flow from 3000 gallons per day to less than 24,000 gallons per day provided all components of the proposed facility are covered by General Aquifer Protection Permits delegated to the LA in Section A of this appendix. NOIs submitted to the LA for facilities that do not meet these criteria shall be forwarded to ADEQ for review and processing or notification to the applicant that an Individual Aquifer Protection Permit is required.

3.7. Operation of a newly constructed on-site wastewater treatment facility or sewage collection system shall not begin until a Verification of General Permit Conformance (VGPC) is issued by the LA in accordance with A.A.C. R18-9-A301.

3.8. The LA may review and approve requests for a feature of alternative design submitted under A.A.C. R18-9-A312(G), but shall not review or approve any request that:

a. Is beyond the scope of technologies permitted under the General Aquifer Protection Permits delegated to the LA in Section A of this appendix,
b. Proposes a change to the listed performance criteria for treatment technologies or the hydraulic loading rates for treatment media established in A.A.C. R18-9-E302 through R18-9-E323, specified in any design reference document approved by ADEQ, or listed for a proprietary or other product approved by ADEQ under A.A.C. R18-9-A309(E),
c. Proposes a change to the relationship between soil absorption rate and percolation rate established in A.A.C. R18-9-A312(D)(2)(a) or between soil absorption rate and soil type established in A.A.C. R18-9-A312(D)(2)(b),
d. Proposes a change to the relationship between the soil absorption rate and adjusted soil absorption rate established in A.A.C. R18-9-A312(D)(3), and

e. Proposes a change to the relationship between the total coliform concentration and minimum vertical separation from groundwater established in A.A.C. R18-9-A312(E).

The LA shall forward any project to ADEQ for processing that is submitted with a alternative design request under A.A.C. R18-9-A312(G) that does not meet the criteria cited in Standards of Performance D.3.8.a or b. The LA shall use a form provided by ADEQ to forward the project. The LA shall refund to the applicant any fees paid to the LA for processing the application. ADEQ shall accept the application and process it as a new application under ADEQ's fee and licensing time frame schedules. If the request under A.A.C. R18-9-A312(G) is for a change in one of the relationships cited in Standard of Performance D.3.8.c, d, or e, the LA shall notify the applicant under the Administrative Completeness Review procedure that the application is deficient because ADEQ has not authorized and does not it itself review requests pertaining to those relationships. Except where other provisions apply as indicated above, the LA shall forward any project to ADEQ for processing submitted with a request under A.A.C. R18-9-A312(G) that the LA has determined would require excessive review time, research, or specialized expertise to act on the request. The LA shall refund to the applicant any fees paid to the LA for processing the application. ADEQ shall accept the application and process it as a new application under ADEQ's fee and licensing time frame schedules.

<u>Subdivisions</u>

4.1. Plans and specifications for approval of a subdivision or portion thereof will be reviewed for conformance with the applicable rules and laws of the State. Projects that comply with such requirements may be approved by issuing a Certificate of Approval for Sanitary Facilities for Subdivisions (CASFS) through the LA's central permit system in accordance with A.A.C. R18-5-401 through 411. If the documents submitted for review do not demonstrate that the subdivision reasonably complies with the applicable rules, the LA shall notify the applicant of its decision not to issue the CASFS.

4.2. For a new subdivision where wastewater disposal is by means of on-site wastewater treatment facilities, the LA shall not approve the subdivision unless the geological report required for submittal by the applicant under A.A.C. R18-5-408(E)(1) provides adequate information indicating that water quality will not be adversely affected by individual or cumulative discharges from the facilities to be constructed as a result of the approval. The information submitted in the geological report shall be sufficient to determine that the types of systems proposed for the subdivision are suitable for the soils and site conditions, including any constraints that might be posed by the minimum vertical separation criteria specified in A.A.C. R18-9-A312(E).

The information submitted in the geological report also shall be sufficient to determine that the cumulative discharge of total nitrogen from the on-site wastewater treatment facilities will not cause or contribute to a violation of the Aquifer Water Quality Standard for nitrate. Unless site-

specific circumstances dictate otherwise, the LA may assume that the cumulative discharge will not cause or contribute to a violation of the Aquifer Water Quality Standard for nitrate if the loading of total nitrogen to groundwater calculated over the area of the subdivision, including streets, common areas, and other non-contributing areas, is not more than 0.075 pounds (34.0 grams) of total nitrogen per day per acre based on full buildout and occupancy of the subdivision. The LA shall maintain, in the file for the approval, the geological report provided by the applicant and other documentation and calculations that the LA relied on in making the determination that the applicant has satisfactorily demonstrated conformance with the nitrogen loading requirement.

4.3. The LA shall provide two originals of the CASFS to the applicant, one of which the applicant may submit to the Arizona Department of Real Estate for that agency's subdivision report requirements.

Public and Semipublic Swimming Pools and Spas

5.1. Plans and specifications for a new public or semipublic swimming pool or spa shall be reviewed by the LA for conformance with the applicable rules and statutes of the State. Plans that comply with such requirements or meet more stringent requirements of the LA enacted in accordance with A.R.S.§ 49-106 and 49-112 may be approved for construction by issuing an Approval to Construct (ATC). The LA may issue ATCs through the LA's central permit system. ATCs must be denied for proposed facilities for which plans and specifications do not demonstrate that the system can reasonably be expected to comply with the applicable rules. The LA shall confer with ADEQ on any variance request submitted by the applicant under A.A.C. R18-5-249. In making the determination on whether to approve or deny the variance, ADEQ and the LA may consider recommendations of an advisory committee convened under A.A.C. R18-5-249(E).

5.2. Operation of a newly constructed public or semipublic swimming pool or spa shall not begin until an Approval of Construction(AOC) is issued by the LA in accordance with A.A.C. R18-5-204.

5.3. Inspections of public and semi-public swimming pools shall be performed by the LA in accordance with A.A.C. R18-5-250. Enforcement actions shall be conducted by the LA in accordance with A.A.C. R18-5-251 unless the LA elects to conduct such actions under independent enforcement authority available to the LA.

Private Residential Gray Water

6.1. The LA shall respond to complaints regarding private residential gray water use and shall provide any needed compliance assistance regarding the best management practices established

in the Type 1 Reclaimed Water General Permit for private residential direct reuse of gray water (A.A.C. R18-9-711).

E. Reporting Requirements:

1. General Provisions. The LA shall submit the reports indicated in this section each month for the first 12 months after the effective date of this delegation agreement. Thereafter, except for the reporting specified in E5, the LA shall submit the reports quarterly providing the required tallies and information for each month of the quarter. Reports shall be submitted on forms provided or approved by ADEQ and shall be mailed to ADEQ within 14 calendar days after the end of the monthly or quarterly reporting period, as applicable. The LA shall mail reports to:

   Kami Budhu
   Division Director's Office
   Water Quality Division
   Arizona Department of Environmental Quality
   3033 North Central Avenue, M-0341A
   Phoenix, AZ 85012

2. Drinking Water Systems. The LA shall submit monthly tallies and information as follows:

   a. Approvals to Construct issued.
   b. Construction inspections performed.
   c. Approvals of Construction issued.
   d. Approvals to Construct and Approvals of Construction issued exceeding maximum licensing time frames.
   e. Exception reports for Approvals which exceeded the maximum licensing time frame.
   f. Appeals of LA decisions filed by applicants.
   g. Compliance inspections performed
   h. Complaints handled.
   i. Compliance and enforcement activities.

   For each compliance inspection performed, the LA shall submit a copy of the inspection report and inventory sheet. The inspection report for each facility shall indicate the operation and maintenance compliance status for the facility.

3. Type 4 General Aquifer Protection Permits (Onsite Wastewater Treatment Facilities and Sewage Collection Systems). The LA shall submit monthly tallies and information pertinent to the following subject areas on forms provided by ADEQ:

   a. Verifications of General Permit Conformance issued.
   b. Verifications issued exceeding maximum licensing time frames.

c. Exception reports for Verifications which exceeded the maximum licensing time frame.
d. Appeals of LA decisions filed by applicants.
d. Compliance and enforcement activities.

3. Subdivisions. The LA shall submit monthly tallies and information, as required by ADEQ, pertinent to Certificates of Approval for Sanitary Facilities for Subdivisions issued by the LA.

4. Public and Semipublic Swimming Pools and Spas. The LA shall submit monthly tallies and information as follows:

   a. Approvals to Construct issued.
   b. Construction inspections performed.
   c. Approvals of Construction issued.
   d. Variances approved.
   e. Appeals of LA decisions filed by applicants.
   e. Compliance inspections performed
   f. Complaints handled.
   g. Compliance and enforcement activities.

5. Enforcement Actions. A copy of each administrative, civil, or criminal action initiated under this Appendix shall be sent to the address indicated in Item E.1 within 14 calendar days of the end of the month in which the action was taken.

F. Agency Contact Persons:

The following LA employee has been designated as responsible for administering the functions and duties pursuant to this Appendix. The LA shall provide ADEQ written notice of any successor.

Name: Diane Carper
Title: Director, Cochise County Health and Social Services Department
1415 West Meldoy Lane, Building A
Bisbee, AZ 85603

The following ADEQ employees have been designated as responsible for administering the functions and duties pursuant to this Appendix other than contact person for receiving reports designated above. The ADEQ shall provide the LA written notice of any successor.

Approvals of Drinking Water Systems, Subdivisions, and Swimming Pools

Name: Jeff Stuck
Title: Manager, Drinking Water Section
Address: Arizona Department of Environmental Quality
3033 N. Central Avenue

Phoenix, AZ 85012

Approvals of On-Site Wastewater Treatment Facilities and Sewage Collection Systems; Private Residential Gray Water

Name: Michele Robertson
Title: Manager, Water Permits Section
Address: Arizona Department of Environmental Quality
3033 N. Central Avenue
Phoenix, AZ 85012

Compliance and Enforcement

Name: Mike Traubert
Title: Manager, Water Quality Compliance Section
Address: Arizona Department of Environmental Quality
3033 N. Central Avenue
Phoenix, AZ 85012

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

APPENDIX B
COCHISE COUNTY
SOLID WASTE MANAGEMENT

A. DELEGATED RESPONSIBILITIES:

The LA agrees to perform those solid waste management functions and duties which are indicated in the first column of the following table. Applicable rules, statutes, and Title 40 Codes of Federal Regulations (CFR) include both those that authorize or prohibit the described activities and those that are to be enforced during the conduct of those activities.

Dele-gated?	Functions and Duties	Applicable Rules Statutes and CFRs	Personnel Qualifications	Stds. Of Performance
X	1. Inspection of septic tank cleaners for ADEQ licensing[1]	A.R.S. §§49-141. 142. 143. 144; R18-8-606, 612, 613, 614, 616, 617	2 or 4	1
	2. Inspection of refuse haulers[2]	A.R.S. §§49-141. 142. 143. 144; R18-13-304, 305, 306, 308, 309, 310, 311	2 or 4	2
X	3. Investigation of nuisance complaints, and enforcement to eliminate environmental nuisances[3]	A.R.S. §§49-141, 142, 143,144; R18-13-303, 304	2 or 4	1 or 2
	4. Investigation of, and enforcement to eliminate illegal disposal of solid waste[4]	A.R.S. §§49-701, 701.01, 791(A)(4); R18-13-303, 304, 307, 311	2 or 4	2
	5. Investigation of and enforcement to eliminate illegal waste tire storage and disposal	A.R.S. §§44-1301, 1304, 1304.01, 1307	2 or 4	N/A
	6. Investigation of and enforcement to eliminate used oil disposal to land	A.R.S. §§49-801, 803, 811, 812; Title 40 CFR §279.1	2 or 4	N/A
	7. Investigation and enforcement of used oil generators for compliance with storage, labeling, and release response requirements	A.R.S. §§49-801, 802.C.1, 811, 812; Title 40 CFR §§279.1, 279.22	2 or 4	N/A

Dele-gated?	Functions and Duties	Applicable Rules Statutes and CFRs	Personnel Qualifications	Stds. Of Performance
	8. Investigation of and enforcement to eliminate illegal disposal of lead acid batteries and unregistered collection sites	A.R.S. §§44-1321, 1322, 1324	2 or 4	N/A
	9. Inspection and registration of lead acid battery collection and recycling facilities	A.R.S. §§44-1321, 1322, 1324	2 or 4	N/A
	10. Inspection of agricultural solid waste landfills operated by persons engaged in farming or ranching on at least 40 acres in an unincorporated area[5]	A.R.S. §49-766(B); R18-13-304, 311	2 or 4	N/A
	11. 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[5]	A.R.S. §49-766(A); R18-13-304, 311	2 or 4	N/A
	12. Approval of solid waste collection and disposal provisions for new subdivisions	R18-5-409, R18-13-305, 311, 312	1, 3, or 4	N/A
	13. Granting of refuse collection frequency variances for all commercial accounts and for residential areas outside city or town limits	R18-13-308(B)	1 or 4	N/A
	14. Inspection of any other solid waste storage, treatment, processing or disposal facility other than solid waste landfills[6]	A.R.S. §49-762.07(F)	2, 3, or 4	N/A
	15. Inspection of biohazardous medical waste transporters for ADEQ registration[7]	A.R.S. §§49-761(D), 768; R18-13-1401, 1402, 1403, 1404, 1409	2 or 4	N/A

[1]Permitting of septic tank cleaners by the county health departments is already authorized by Arizona Administrative Code (A.A.C.) R18-8-613. The county health departments are also already

authorized to revoke or suspend county septic tank cleaner permits under A.A.C. R18-8-616(C). The purpose of this delegation is to recognize county inspections as valid for the purpose of issuance of ADEQ septic licences, and to ensure that inspections of septic haulers are conducted at least annually.

[2]The county health departments are already authorized to issue licences to refuse haulers pursuant to A.R.S. §49-765 and A.R.S. §49-704. The inclusion of this function in this delegation agreement is only to act as a formal process by which the county agrees to be responsible for inspection of refuse haulers and for ADEQ to ensure such inspections are conducted at least annually.

[3]The county health departments are already authorized to investigate and enforce nuisances, sources of filth and unsanitary conditions pursuant to A.R.S. §§36-167, 36-168, and 36-186.

[4] Some examples of illegal disposal of solid waste includes: wildcat dumping and other surface littering or disposal to land surfaces, such as in washes, canyons, fissures, and arroyos, or organized operations by landowners or businesses to backfill excavated areas such as borrow pits, or sand and gravel mining pits, with solid waste. Solid waste may be in the form of ashes, garbage, manure, refuse, or rubbish which is typically mixed with inert materials such as construction debris, demolition debris, and landscape cleanup debris.

[5]The county health departments are already authorized to adopt their own policies for the regulation of solid waste (such as for agricultural and single family residential solid waste landfills) pursuant to A.R.S. §49-704. A location map and written, general description of agricultural and single family residential solid waste landfills located on at least 40 acres in unincorporated areas, are already required to be submitted to the county board of supervisors pursuant to A.R.S. §49-766.

[6]Examples of solid waste storage, treatment, processing or disposal facilities other than solid waste landfills include solid waste transfer facilities, solid waste recycling facilities, household hazardous waste collection facilities.

[7]Permitting, licensing, or other approval by the local health department or environmental agency is already authorized by A.A.C. R18-13-1409(A). The purpose of this delegation is to recognize county inspections as valid for the purpose of issuance of ADEQ registrations, and to ensure that inspections of each biohazardous medical waste transporting vehicle for compliance with the record keeping and operational requirements listed in A.A.C. R18-13-1409(C), (E), (F), and (G)(4) are conducted at least annually.

Definitions

1. Environmental Nuisance. The creation or maintenance of a condition in the soil, air or water that causes or threatens to cause harm to the public health or the environment. The following solid waste conditions or occurrences may constitute environmental nuisances:

a. A condition or place in populous areas which constitutes a breeding place for flies, rodents, mosquitoes and other insects which are capable of carrying and transmitting disease-causing organisms to any person or persons.

b. Sewage, human excreta, wastewater, garbage or other organic wastes deposited, stored discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.

c. A vehicle or container which is used in the transportation of garbage or human excreta and which is defective and allows leakage or spillage of contents.

d. The maintenance of an overflowing septic tank or cesspool, the contents of which may be accessible to flies.

e. The use of the contents or privies, cesspools, or septic tanks or the use of sewage or sewage plant effluents for fertilizing or irrigation purposes for crops or gardens except by specific approval of the Arizona Department of Health Services or ADEQ.

f. The storage, collection, transportation, disposal and reclamation of garbage, trash, rubbish, manure and other objectionable wastes other than as provided and authorized by law and rule.

2. Inert Material. Material that is not flammable and will not decompose or leach substances in concentrations that exceed applicable water quality standards prescribed by A.R.S. §49-201, paragraph 18, when exposed to water, and includes concrete, asphalt pavement, brick, rock, gravel, sand and soil.

3. Municipal Solid Waste Landfill. A municipal solid waste landfill is any landfill that accepts household waste, household hazardous waste or conditionally exempt small quantity generator waste.

4. On-site. On-site, for purposes of solid waste, means the same or geographically contiguous property that may be divided by a public right-of-way if the entrance and exit between the properties is at a crossroads intersection and access is by crossing the right-of-way and by traveling along the right-of-way. Noncontiguous properties that are owned by the same person and connected by a right-of-way that is controlled by that person and to which the public does not have access are deemed on-site property.

5. Refuse. Refuse is defined by A.A.C. R18-13-302 as all putrescible and nonputrescible solid waste, except human excreta, but including garbage, rubbish, ashes, manure, street cleanings, dead animals, abandoned automobiles and industrial wastes.

6. Rubbish. Rubbish is defined by A.A.C. R18-13-302 as "nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste such as paper, cardboard, waste metal, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials."

7. Rubbish Landfill. A rubbish landfill is one that accepts for disposal rubbish and inert materials but does not accept liquids, any type of waste that supports fly breeding or industrial processing wastes.
8. Solid Waste. Solid waste means any garbage; trash; rubbish; refuse; sludge from a waste treatment plant, water supply treatment plant or pollution control facility; and other discarded material including solid, liquid, semisolid or contained gaseous material. Solid Waste does not include inert material; landscaping rubble used to reclaim land; mining industry tailings or slag produced on-site; mining industry off-road waste tires buried on-site; domestic sewage; irrigation waters or irrigation return flows; discharges into a private or publicly owned treatment works including sewer collection systems; reclaimed wastewater from wastewater reuse facilities; industrial discharges which are point sources subject to permits under §402 of the Federal Water Pollution Control Act; hazardous wastes as defined in A.R.S. §49-921(5); wastes that contain radioactive materials that are subject to a permit or regulation under the Atomic Energy Act of 1954, as amended or Title 30, Chapter 4 of the Arizona Revised Statutes; substances or materials that remain on site as specifically approved by ADEQ in a work plan for remedial or corrective actions undertaken to comply with CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended); RCRA (Resource Conservation and Recovery Act of 1976) or the Federal Water Pollution Control Act amendments of 1972; nonexcavated soils or excavated soils subject to applicable soil remediation levels or groundwater protection levels or ADEQ notification provisions listed in A.R.S. §49-701.02.

9. Solid Waste Facility. A solid waste facility includes a transfer facility and any site owned, operated or used by any person for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste or household hazardous waste, but does not include the following:

   a. A site at which less than one ton of solid waste that is not household waste, household hazardous waste, conditionally exempt small quantity generator hazardous waste, medical waste, or special waste (automobile shredder fluff or petroleum contaminated soils above soil remediation levels), and that was generated on site and is stored, processed, treated or disposed in compliance with the solid waste facility operating and maintenance requirements listed in A.R.S. §49-762.07(F).

   b. A site at which solid waste that was generated on site is stored for ninety (90) days or less.

   c. A site at which nonputrescible solid waste that was generated on site in amounts of less than one thousand kilograms per month per type of nonputrescible solid waste is stored and contained for one hundred eighty days (180) or less.

   d. A site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel, or other recyclable material, and that is not a waste tire facility, a transfer facility or a recycling facility.

e. A site where sludge from a wastewater treatment facility is applied to the land as a fertilizer or beneficial soil amendment in accordance with sludge application requirements.

f. A closed solid waste facility.

g. A site where solid waste generated in street sweeping activities is stored, processed, or treated, prior to disposal at a solid waste facility.

h. Household hazardous waste collection events held at a temporary site for not more than six days in any calendar quarter.

i. A site at which five hundred (500) or fewer waste tires are stored.

j. Wastewater treatment facilities as defined in A.R.S. §49-1201; agricultural on-site disposal facilities as provided in A.R.S. §49-766; on-site single family household waste composting facilities.

k. A closed solid waste landfill performing a onetime removal of solid waste from the closed landfill, provided the operator provides ADEQ written notice as provided in A.R.S. §49-701(29)(h).

l. A closed landfill where development activities occur on the property or where excavation or removal of solid waste is performed for maintenance and repair provided the conditions listed in A.R.S. §49-701(29)(k) are met.

10. Solid Waste Landfill. A solid waste landfill means a facility, area of land or excavation in which solid wastes are placed for permanent disposal. Solid waste landfill does not include a land application unit, surface impoundment, injection well, compost pile or waste pile or an area containing ash from the on-site combustion of coal that does not contain household waste, household hazardous waste or conditionally exempt small quantity generator waste.

11. Wildcat Dump. A wildcat dump is a location where indiscriminate littering or dumping of solid waste is occurring without the property owner's approval.

B. EXCEPTIONS AND SPECIAL PROVISIONS:

1. The delegation of certain inspection functions does not prevent, alter or diminish LA's authority to implement a permitting program or to charge fees for said permits or inspection services as authorized by law.

2. The retention by ADEQ of authority over certain classes of solid waste facilities for solid waste facility plan approval, registration, licensing, permitting or inspection programs does not prevent, prohibit or otherwise limit LA's authority to issue a Cease and Desist or to take other legal

actions, as provided by law, against any solid waste storage, treatment, processing or disposal facility operating with or without ADEQ approval, registration, license or permit.

3. The ADEQ will retain authority for approval and issuance of solid waste facility plans for all municipal solid waste landfills and for all solid waste landfills other than municipal solid waste landfills.

4. ADEQ's delegation of authority to permit septic tank cleaners is a reaffirmation of LA's duty as conferred on it by A.A.C. R18-8-613.

5. The ADEQ will retain responsibility for the administration and enforcement of all solid waste facilities that are operated by federal, state, county or municipal agencies.

6. The LA shall retain all penalties collected pursuant to Section A of this Appendix.

7. The LA agrees to, to the extent practicable, conduct compliance and enforcement actions according to ADEQ policy.

C. PERSONNEL QUALIFICATIONS:

The following minimum personnel qualifications shall apply, where applicable, to individuals performing the functions and duties listed in Section A of this Appendix. The requirements of the Arizona Board of Technical Registration and the Arizona Sanitarians Council shall be observed.

1. Duties shall be performed by a Registered Sanitarian.

2. Duties shall be performed by or under the direction of a Registered Sanitarian.

3. Duties shall be performed by or under the direct supervision of a Professional Engineer.

4. Duties shall be performed by persons with training and experience equivalent to ADEQ's Environmental Health Specialist series.

D. STANDARDS OF PERFORMANCE:

The following standards of performance apply, where indicated, to the functions and duties listed on Section A of this Appendix.

1. The LA shall administer and enforce the health and sanitation requirements pertaining to human excreta contained in A.A.C. R18-8-612 through 617 with the following stipulations:

    a. Any burial site or open dump site for human excreta approved by the LA in accordance with A.A.C. R18-8-612 (E) and (F), that is used more than once, shall be considered a solid waste

disposal facility and must first submit a solid waste facility plan to the ADEQ pursuant to A.R.S. §49-762.

b. The LA will conduct annual inspections and issue permits for all vehicles used for the storage, collection, transportation or disposal of human excreta.

2. The LA shall administer and enforce the health and sanitation requirements contained in A.A.C. R18-13-301 et seq., and the environmental nuisance requirements contained in A.R.S. §49-141 through A.R.S. §49-144 with the following stipulations and exceptions:

   a. The ADEQ shall retain the responsibility of approving design and operational plans for all solid waste landfills and solid waste storage, treatment, processing or disposal facilities, except those landfills permitted by the county as agricultural landfills located on ranches or farms of more than 40 acres, or those on-site facilities serving single residential units located on ranches or farms of more than 40 acres and those landfills operated as part of an establishment under a LA sanitation permit.

E. REPORTING REQUIREMENTS:

1. The LA shall report to ADEQ annually on any enforcement actions, initiated or concluded (including Notices of Violation, Orders), by submitting two copies of each administrative, civil, or criminal action initiated under this Agreement: one to the ADEQ Phoenix Agency Contact person for Solid Waste, listed in Section F. of this Appendix of this DA, and one to the ADEQ Regional Office.

2. The LA shall submit an annual report for the previous calendar year to ADEQ by January 31, addressing the following information:

   a. A list of all septic tank cleaners under county permit and a list of all disposal sites approved by LA for one time disposal of such wastes, pursuant to A.A.C. R18-8-612(E) and (F).

F. AGENCY CONTACT PERSONS:

The following LA employees have been designated as responsible for administering the functions and duties pursuant to this Appendix. The LA shall provide written notice of any successor.

Name: Larry Leach, R.S.
Title: Director, Environmental Health Division
Address: Cochise County Health and Social Services Department
1415 West Melody Lane, Building A
Bisbee, AZ 85603-3090

The following employee has been designated as responsible for administering the functions and duties pursuant to this appendix. The ADEQ shall provide written notice of any successor.

Name: Kimberly McDaniel
Title: Unit Manager, Solid Waste Inspections & Compliance Unit
Address: Arizona Department of Environmental Quality
3033 N. Central Avenue, Mail Code T3011A
Phoenix, AZ 85012
(602) 207-4121

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

Amendment No. 1 to
Cochise County Delegation Agreement #00-0032

Cochise County Department of Health ~~and Social Services~~

Diane Carper 1-16-02

Diane Carper Date
Director

Arizona Department of Environmental Quality

2/5/02

Jacqueline E. Schafer Date
Director

County Board of Supervisors

Jan 2, 02

Leslie Thompson Date
Chairman

Attest:

Jan 2, 02

Nadine Parkhurst Date
Clerk of the Board

Pursuant to A.R.S. §11-952(D), the foregoing Amendment has been reviewed by the undersigned attorneys for the Cochise County Department of Health and Social Services and the Arizona Department of Environmental Quality, who have determined that this Amendment is in proper form and is within the powers and authority granted under Arizona law to their respective agencies.

11/29/0

~~Chris M. Roll~~ Date
~~County Attorney~~
PATRICK F. LEDGER
Deputy County Attorney

2/05/02

Steven J. Burr Date
Assistant Attorney General