

NOTICES OF PROPOSED DELEGATION AGREEMENT

The Administrative Procedure Act requires the publication of notices of proposed delegation agreements in the *Register*. A delegation agreement is an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers or duties conferred on the delegating agency by a provision of law. Delegation agreements are not intergovernmental agreements pursuant to A.R.S. Title 11, Chapter 7, Article 3. For at least 30 days after publication of the Notice of Proposed Delegation Agreement in the *Register*, the agency shall provide persons the opportunity to submit in writing statements, arguments, date, and views on the proposed delegation agreement and shall provide an opportunity for a public hearing if there is sufficient interest. The delegating agency shall follow the procedures for delegation agreements specified in A.R.S. Title 41, Chapter 6, Article 8.

DEPARTMENT OF ENVIRONMENTAL QUALITY

1. **Name of the agency proposing the delegation agreement:**
Department of Environmental Quality
2. **The name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated:**
Pima County Department of Environmental Quality
3. **The name, address, and telephone number of agency personnel to whom persons may direct questions or comments:**
Name: Sharon Turner
Address: Arizona Department of Environmental Quality
3033 North Central Avenue #157
Phoenix, Arizona 85012
Telephone: (602) 207-4778
4. **A summary of the delegation agreement and the subjects and issues involved:**
Under A.R.S. § 49-107 the Arizona Department of Environmental Quality proposes to delegate the program elements listed below to the Pima County Department of Environmental Quality, serving as the local agency. The delegated functions include portions of the Safe Drinking Water Program, the Water Pollution Control Program, the Solid and Hazardous Waste Management Programs and the Air Quality Management Program. The effective date of this Agreement is the date of filing with the Secretary of State and Pima County Recorder's Offices. The expiration date of this Agreement is June 30, 2000.
Delegated Functions:
 1. Approval to construct for drinking water facilities.
 2. Approval of construction for drinking water facilities.
 3. Enforcement of regulations governing drinking water systems.
 4. Compliance inspections of drinking water facilities.
 5. Approval of plans (approval to construct) for wastewater facilities.
 6. Approval of construction for wastewater facilities.
 7. Approval of plans and construction of septic tank systems with subsurface disposal.
 8. Enforcement of regulations governing septic tank systems with subsurface disposal.
 9. Approval of plans and construction of alternate individual on-site disposal systems with designs that conform to Engineering Bulletin 12.
 10. Enforcement of regulations governing alternate individual on-site disposal systems with designs that conform to Engineering Bulletin 12.
 11. Approval of sanitary facilities for subdivisions.
 12. Enforcement of regulations governing sanitary facilities for subdivisions.
 13. Compliance and construction inspections of water and sanitary facilities delegated in Appendix A.
 14. Inspection, permitting, and licensing of septic tank cleaners.
 15. Investigation of nuisance complaints.
 16. Investigation of, and enforcement to eliminate, illegal and "wildcat" dumps.
 17. Inspection and permitting of refuse haulers.
 18. Inspection of private disposal operations located on property of establishments permitted or licensed by LA.
 19. Approval and inspection of agricultural solid waste landfills operated by persons engaged in farming or ranching on at least 40 acres in an unincorporated area.
 20. Inspection of solid waste landfills, other than municipal solid waste landfills, approved by DEQ.
 21. Approval of solid waste collection and disposal provisions for new subdivisions.
 22. Granting of refuse collection frequency variances for all commercial accounts and for residential areas outside city or town limits.
 23. Approval and inspection of on-site single residential unit solid waste processing and disposal operations.
 24. Approval and inspection of any other type of solid waste, special waste, or waste tire facility, upon mutual agreement of LA and DEQ.
 25. Enforcement of rules governing the storage, handling, and transportation of solids, liquids, and gases which may cause or contribute to pollution as it relates to matters delegated in Appendix B.
 26. The intent of this agreement is to establish the authority of the LA under which it may register, investigate, inspect, and take all necessary enforcement actions to obtain compliance with the Hazardous Waste Laws and rules of the state of Arizona, as administered by the DEQ. These rules include Arizona Administrative Code R18-8-201 through

Notices of Proposed Delegation Agreement

- R18-8-280, including the adopted U.S. Environmental Protection Agency rules under the Code of Federal Regulations, (40 CFR 260 through 270).
27. The intent of this agreement is to clearly allocate between DEQ and Pima County, acting by and through the Pima County Department of Environmental Quality (LA), the whole of existing jurisdiction over the management and regulation of air quality in Pima County. Accordingly, subject only to the express reservations below, DEQ hereby delegates, and Pima County on behalf of LA agrees to accept, a delegation of authority and jurisdiction throughout Pima County to perform air quality management activities meeting at least the minimal requirements and standards established under the Clean Air Act, and A.R.S. Title 49, Chapter 3, and expressly including therein jurisdiction pertaining to Major Sources, except as provided in (B)(5), New Source Review (NSR), Prevention of Significant Deterioration (PSD), National Emission Standards for Hazardous Air Pollutants (NESHAPS), and New Source Performance Standards (NSPS). Personnel qualifications, standards of performance, and reporting requirements listed in Sections C, D, and E of Appendix D to apply to all categories.
 28. Pursuant to A.R.S. § 49-402(A), DEQ reserves jurisdiction within Pima County over the following specific source categories:
 - a. Facilities for the smelting of metal ore.
 - b. Petroleum refineries.
 - c. Coal-fired electrical generating stations.
 - d. Portland cement plants.
 - e. Air pollution by portable sources (except for those sources covered by A.A.C. R18-2-324).
 - f. Air pollution by mobile sources (for the purposes of regulation as provided in A.R.S. Title 49, Chapter 3, Article 4.
 29. Within Pima County, DEQ further reverses source-wide, source-specific jurisdiction with respect to permits and other regulation of incidental emissions, insofar as the source is one over which DEQ has reserved jurisdiction pursuant to Paragraph (B)(1) of this Section, and all of the following occur:
 - a. Any building, structure, facility, or installation subject to regulation pursuant to A.R.S. § 49-426(A), which emits or may emit any air pollutant. "Building", "structure", "facility", or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987" and,
 - b. Both the activity that gives rise to the original reservation in favor of DEQ and the activity that gives rise to the incidental emissions are under the control of the same entity or parent-and-subsidiary entities.
 30. This agreement does not preclude DEQ from asserting jurisdiction over any source pursuant to A.R.S. § 49-402(B).
 31. The delegation of function, powers, and duties under Appendix D does not prevent, alter, or diminish LA's authority to permit and control sources of air pollution pursuant to A.R.S. §§ 49-402, 49-476.01, 49-479, and 49-480.
 32. This agreement, as it relates to jurisdiction over major sources, shall be effective if the Administrator partially disapproves the permit program adopted by the LA pursuant to Title V of the CAA and shall be cancelled if the Administrator fully disapproves the Title V permit program.
5. Copies of the proposed delegation agreement may be obtained from the agency as follows:
Name: Sharon Turner
Address: 3033 North Central Avenue #157
Phoenix, Arizona 85012
Telephone: (602) 207-4778
6. The schedule of public hearings on the proposed delegation agreement:
Date: May 16, 1995
Time: 6 p.m.
Location: Tucson Main Public Library
Basement Conference Room
101 North Stone Avenue
Tucson, Arizona 85701

DEPARTMENT OF ENVIRONMENTAL QUALITY

1. Name of the agency proposing the delegation agreement:
Department of Environmental Quality
2. The name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated:
Pinal County acting through the Pinal County Air Quality Control District
3. The name, address, and telephone number of agency personnel to whom persons may direct questions or comments:
Name: Sharon Turner
Address: 3033 North Central Avenue #157
Phoenix, Arizona 85012
Telephone: (602) 207-4778
4. A summary of the delegation agreement and the subjects and issues involved:
The proposed delegation constitutes a renewal of an existing agreement between the Arizona Department of Environmental Quality (ADEQ) and Pinal County, acting through the Pinal County Air Quality Control District. The agreement confers authority upon the County in two substantive areas, formalizes the cooperative relationship between ADEQ and Pinal County, and clearly obligates the County to meet ADEQ's existing standards of excellence in the areas of personnel qualification and

Arizona Administrative Register
Notices of Proposed Delegation Agreement

program administration. The effective date of this Agreement is the date of filing this Agreement with the Secretary of State and the Pinal County Recorder's Offices. The expiration date of this agreement is June 30, 2000.

A. Delegation of Major Source Jurisdiction

Subject to specific exceptions, the County receives authority over major sources of air pollution located in Pinal County. The delegated authority corresponds to that which the County would have upon the EPA's approval of the County's PSD/NSR ("Prevention of Significant Deterioration/New Source Review") programs under the Clean Air Act. Since 1993, the County has had applications pending before the EPA seeking approval of the County's PSD/NSR programs. This delegation serves as a bridge, preserving the continuity of the County program until such time as the EPA is able to act on those pending program approval requests.

The delegation to the County of major source jurisdiction remains subject to a reservation in favor of ADEQ of jurisdiction over the specific source categories listed in A.R.S. § 49-402(A). In addition, ADEQ has reserved jurisdiction over incidental emissions from jointly controlled, co-located, and adjacently located activities that fall within the same primary SIC classification.

Even after an EPA-approval of the equivalent County program, this element of the delegation will retain vitality by clarifying the jurisdictional boundary with respect to such incidental emissions.

B. Delegation of Administrative Authority Over Specific EPA-Promulgated Programs

Pinal County receives a subdelegation of authority to administer a number of regulatory programs promulgated by the EPA under the Clean Air Act.

The subdelegation with respect to the NSPS ("New Source Performance Standards") and NESHAP ("National Emissions Standards for Hazardous Air Pollutants") constitutes a clarification of regulatory jurisdiction. While ADEQ has a statewide EPA-approved authority to administer these programs, Pinal County has County-specific EPA-approved authority. Both the ADEQ and the County programs track the EPA's rule-defined standards and are substantially identical. This subdelegation resolves possible questions as to jurisdictional boundaries.

In addition, the County receives authority to administer a PSD/NSR program under the auspices of the ADEQ program approved by the EPA. As mentioned above, this delegation constitutes a bridge to sustain the County's program until the EPA is able to act on the County's pending program approval request. Since both ADEQ's approved program and the County's proposed program reflect the requirements established by the EPA's regulations, the programs are substantially identical. Upon EPA approval of the County's PSD/NSR program, this delegation has continued effect by also resolving possible jurisdictional questions.

C. Formalization of Agency Cooperation Agreement

Under this agreement, Pinal County agrees to cooperate with and support ADEQ in the areas of data collection, reporting, and compliance efforts, specifically including enforcement activity.

D. Formalization of Personnel and Performance Standards

Under this agreement, Pinal County agrees to meet certain employee-qualification standards and performance standards, including time-lines for permit actions, frequency of source-inspections, timeliness of compliance-related actions, and general adherence to applicable legal requirements.

5. Copies of the proposed delegation agreement may be obtained from the agency as follows:

Name: Sharon Turner
Address: 3033 North Central Avenue #157
Phoenix, Arizona 85012
Telephone: (602) 207-4778

6. The schedule of public hearings on the proposed delegation agreement:

Date: May 15, 1995
Time: 10 a.m.
Location: Pinal County Board of Supervisors Hearing Room
Administration Building, #1
31 North Pinal Avenue
Florence, Arizona 85232