

INFORMAL RESOLUTION AGREEMENT
between
THE PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY (PDEQ)
and
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA COMPLAINT NO. 01RNO-22-R9

I. PURPOSE AND JURISDICTION

- A.** Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI) and other federal nondiscrimination laws, and United States Environmental Protection Agency's (EPA) implementing regulation at 40 C.F.R. Parts 5 and 7 prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and retaliation in the programs, services and activities of applicants for or recipients of federal financial assistance.¹
- B.** The Pima County Department of Environmental Quality (PDEQ) receives federal financial assistance from the EPA and, therefore, must ensure non-discrimination in programs, services, and activities pursuant to the provisions of Title VI, the other federal non-discrimination laws, and the EPA's implementing regulations.
- C.** On December 19, 2021, the EPA's Office of External Civil Rights Compliance (OECRC)² received Complaint No. 01RNO-22-R9, which alleged discrimination by PDEQ based on race and national origin.
- D.** In response to the complaint, on August 16, 2022, the EPA accepted for investigation the following issues:
 - 1. Whether PDEQ's criteria and method of administering its air quality permitting process for the proposed Becton, Dickinson and Company (BD) Product Sterilization Facility, specifically, with respect to the method used by PDEQ for its environmental justice analysis, subjected persons of color, including Latinx persons, who live "near" the Becton Facility to discrimination on the basis of race and national origin in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation at 40 C.F.R. Part 7;

¹ Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

² On September 24, 2022, EPA announced the establishment of the [Office of Environmental Justice and External Civil Rights](#) (OEJECR). The new Office includes the External Civil Rights Compliance Office, which was renamed the [Office of External Civil Rights Compliance](#) (OECRC). [OECRC](#) continues to enforce and ensure compliance with federal civil rights laws, which prohibit discrimination by applicants for and recipients of EPA financial assistance. OECRC accomplishes these goals in accordance with the procedure described in the [Case Resolution Manual](#).

2. Whether PDEQ discriminated on the basis of race and national origin, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation at 40 C.F.R. Part 7, by failing to provide meaningful public participation in the air permit process for the proposed Becton Facility; and
 3. Whether PDEQ has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that all recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to PDEQ services, programs, and activities, for individuals with limited English proficiency (LEP) and individuals with disabilities, and whether PDEQ has a public participation policy and process that is consistent with Title VI of the Civil Rights Act of 1964 including other federal civil rights laws, and EPA's implementing regulations at 40 C.F.R. Parts 5 and 7.
- E.** During the course of the EPA's investigation of Complaint No. 01RNO-22-R9, on November 3, 2022, PDEQ agreed to engage in the voluntary Informal Resolution Agreement (Agreement) process in order to resolve the complaint.
- F.** On March 10, 2023, BD sent a notice of intent to terminate the subject air quality permit to PDEQ, indicating that the company "no longer [intends] to construct the facility as proposed at its Tucson location." In response to the notice, PDEQ terminated the permit, effective March 21, 2023.
- G.** On June 1, 2023, OECRC transmitted a letter to the Director of PDEQ indicating that, in light of PDEQ's termination of the subject air quality permit, that issue #1 – as set forth in Part I.D.1 above, was moot. OECRC administratively closed issue #1 but affirmed that it would continue to investigate the other issues that it originally accepted for investigation – meaningful public participation and procedural safeguards. OECRC affirmed its intent to resolve these issues through the informal resolution process.
- H.** This Agreement is entered into by PDEQ and the EPA.
- I.** This Agreement is entered into pursuant to the authority granted to the EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and the EPA's implementing regulation found at 40 C.F.R. Parts 5 and 7, and resolves Complaint No. 01RNO-22-R9.
- J.** This Agreement does not constitute an admission by PDEQ of a violation of, or a finding of compliance or noncompliance by the EPA with, Title VI or 40 C.F.R. Parts 5 and 7.
- K.** PDEQ has expressed its commitment to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and

other federal non-discrimination laws and the EPA regulation at 40 C.F.R. Parts 5 and 7. The activities detailed in Sections III and VI of this Agreement, which PDEQ has voluntarily agreed to undertake and implement, are in furtherance of this ongoing commitment.

II. BACKGROUND

Pima County Department of Environmental Quality's (PDEQ) mission is to preserve and protect the environment of Pima County for the long-term benefit of residents' health, welfare, safety, and quality of life. PDEQ has programs related to air quality, water, waste and recycling, and code compliance, and recently added a program on climate change. PDEQ provides public education and outreach, monitoring, and compliance; issues permits; and writes local rules. PDEQ's home page is available here: <https://www.pima.gov/393/Environmental-Quality>.

Pima County follows all applicable public outreach requirements in the Arizona Revised Statutes, Pima County Code, and Pima County Administrative regulations. Pima County's previous non-discrimination policies have been heavily focused on environmental justice. This included a basic civil rights grievance policy (misabeled "Environmental Justice Grievance"), and extensive outreach campaigns for specific projects that garnered more public attention and concern. The projects with heightened public process have included multiple notices in newspapers, social media, and mailers, in English and Spanish; coverage on local radio; an environmental justice analysis available on PDEQ's website; notices to neighborhood associations, business groups, and environmental non-profits. Pima County's website is compatible with embedded translation software for every web page, and is compatible with programs for low-vision and no-vision users. Roughly 1/4 of PDEQ's staff speak Spanish conversationally or better. Pima County is currently developing a Standard Operating Procedure with guidance on when and how to engage in heightened public outreach, in keeping with and beyond the agreements made in this document.

PDEQ is committed to considering all relevant public comments and concerns on permitting and rulemaking decisions.

III. SPECIFIC PDEQ COMMITMENTS

PDEQ agrees to the following commitments:

A. Notice of Non-Discrimination under the Federal Non-Discrimination Laws

1. PDEQ will post a notice of non-discrimination (Notice) prominently on PDEQ's website homepage, in all PDEQ'S offices and facilities, and in its general publications that are distributed to the public (*e.g.*, public outreach materials, such as brochures, notices, fact sheets or other information on rights and services; applications or forms to participate in or access PDEQ programs,

services, and activities). PDEQ will ensure that its Notice, including as posted on its website homepage, is accessible to individuals with limited-English proficiency (LEP) and individuals with disabilities, including ensuring that the Notice as posted on its website homepage is accessible to persons who are blind or have low vision.

The Notice will contain, at a minimum, the following text:

- a. PDEQ does not discriminate on the basis of race, color, sex, national origin (including limited English proficiency [LEP]), age, or disability in administration of its programs, services, and activities. PDEQ does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected/prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.
- b. PDEQ's Civil Rights Coordinator will be responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7 (Non-Discrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to collectively as the federal non-discrimination laws).
- c. If you have any questions about this notice or any of PDEQ'S non-discrimination programs, policies or procedures, you may contact:

Civil Rights Coordinator
Pima County Department of Environmental Quality
33 North Stone Ave, 7th floor
520-724-7400
CivilRights.PDEQ@pima.gov

If you believe that you have been discriminated against with respect to PDEQ's programs, services or activities, you may contact the Civil Rights Coordinator or visit our website at <https://www.pima.gov/393/Environmental-Quality> to learn how and where to file a complaint of discrimination.

2. Within 30 days after the effective date of this Agreement, PDEQ will submit to the EPA for review a draft copy of its Notice. OECRC will strive to review the draft Notice and provide any comments within 30 days. Within 30 days of receiving OECRC's comments, PDEQ will prominently publish in print and on its website homepage the final Notice.

B. Grievance Procedure to Process Discrimination Complaints filed under the Federal Non-Discrimination Laws³

1. PDEQ will ensure that it has prominently published online its Grievance Procedures to process discrimination complaints filed under federal non-discrimination statutes and the EPA's implementing regulations at 40 C.F.R. Parts 5 and 7. PDEQ will review the Grievance Procedures on an annual basis, and revise as necessary, to allow for prompt and fair resolution of discrimination complaints.
2. The Grievance Procedure will, at a minimum:
 - a. Identify by name the Civil Rights Coordinator, including contact information;
 - b. Explain the role of the Civil Rights Coordinator relative to the coordination and oversight of the Grievance Procedure;
 - c. State who may file a complaint under the Grievance Procedure;
 - d. Describe the formal process available, and the options for complainants in pursuing it;
 - e. Apply the preponderance of the evidence burden when evaluating the merits of the complaint;
 - f. Contain assurances that intimidation and retaliation are prohibited⁴ and that claims of intimidation and retaliation will be handled promptly and fairly pursuant to the Grievance Procedure in the same manner as other claims of discrimination;
 - g. Assure the prompt and fair resolution of complaints that allege violations of federal non-discrimination laws;
 - h. State that written notice will be promptly provided about the outcome of the investigation, including whether discrimination was found, and a description of the investigation process; and
 - i. Provide a complaint form that can be used by the public to file complaints of discrimination with PDEQ.
3. Within 30 days after the effective date of this Agreement, PDEQ will submit to OECRC a copy of its draft Grievance Procedure. OECRC will strive to provide its comments within 30 days.

³ 40 C.F.R. § 7.90; 40 C.F.R. § 5.135(b).

⁴ 40 C.F.R. § 7.85(g); 40 C.F.R. § 5.135(a).

4. Within 60 days of receiving OECRC's comments on PDEQ's draft Grievance Procedure, PDEQ will modify its Grievance Procedure based on OECRC comments, will translate the Grievance Procedure in appropriate languages⁵ as will be determined in PDEQ's Language Access Plan, and post its Grievance Procedure in English and in the other appropriate languages on its website.
5. Within six months of the effective date of this Agreement and then every six months thereafter for a total period of two years, PDEQ will provide OECRC with a report on PDEQ's efforts implementing the Grievance Procedure. The report, at a minimum, will include the date and subject matter of each civil rights complaint filed to PDEQ during the reporting period; the description of steps PDEQ took resolve each complaint; and such other information as PDEQ deems appropriate to demonstrate its adherence to the Grievance Procedure.

C. Designation of Non-Discrimination Coordinator

1. PDEQ will designate at least one Non-Discrimination/Civil Rights Coordinator to ensure compliance with the federal non-discrimination laws, who will:
 - a. Provide information to individuals internally and externally that PDEQ does not discriminate on the basis of race, color, national origin, disability, age, or sex in the administration of PDEQ's programs, services, and activities, and that PDEQ does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected/prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights;
 - b. Provide notice of PDEQ's Grievance Procedure and the ability to file a discrimination complaint;
 - c. Establish a mechanism (e.g., an investigation manual) for implementation of PDEQ's Grievance Procedure to ensure that all discrimination complaints filed with PDEQ under federal non-discrimination laws and the EPA implementing regulations 40 C.F.R. Parts 5 and 7 are processed promptly and fairly. One element of any policy and procedure or mechanism must include providing meaningful access for individuals with limited English proficiency and individuals with disabilities to PDEQ's programs, services, and activities;
 - d. Track all complaints filed with PDEQ under federal non-discrimination laws, in order to identify any patterns or systemic problems;

⁵ Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 F.R. 35602, <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

- e. Within six months of the effective date of this Agreement and every six months for a period of two years (i.e., 24 calendar months), conduct reviews/analysis of all complaints filed with PDEQ under the federal non-discrimination laws, identified in 40 C.F.R. Parts 5 and 7 and/or any other discrimination complaints independently investigated by PDEQ covering these laws, to identify and address any patterns, systematic problems or any trends identified;
 - f. Ensure that training is provided for PDEQ staff in the processes available to resolve complaints filed with PDEQ under federal non-discrimination laws;
 - g. Ensure that training is provided for PDEQ staff on PDEQ's non-discrimination policies and procedures, as well as the nature of the PDEQ's obligation to comply with federal non-discrimination laws;
 - h. Ensure that complainants are updated on the progress of their complaints filed with PDEQ under federal non-discrimination laws and are promptly informed, in accordance with the timeframe set forth in the Grievance Procedure, as to any determinations PDEQ has made; and
 - i. Within six months of the effective date of this Agreement and every six months for a period of two years (i.e., 24 calendar months), evaluate the efficacy of PDEQ's efforts to provide services, aids, benefits, and participation in any of PDEQ's programs, services, and activities without regard to race, color, national origin, disability, age, sex or prior exercise of rights or opposition to actions protected under federal non-discrimination laws.
- 2. The Civil Rights Coordinator will not have other responsibilities that create a conflict of interest (e.g., serving as PDEQ's Non-Discrimination Coordinator as well as its defensive counsel).
 - 3. Within 90 days after the effective date of this Agreement, PDEQ will identify at least one individual who will serve as Civil Rights Coordinator consistent with the regulatory requirements of 40 C.F.R. §§ 5.135, 7.85(g), and 7.95(a).
 - 4. Within 90 days of appointment of a Civil Rights Coordinator, PDEQ will forward to OECRC proof that the responsibilities have been included in the incumbent's statement of duties and that the incumbent has accepted the duties.

D. Public Participation⁶

1. PDEQ will draft a Public Participation Plan (PPP) that will:
 - a. Ensure its public involvement process is available to all persons regardless of race, color, sex, national origin (including limited-English proficiency) age, or disability, or prior exercise of rights or opposition to actions prohibited under federal non-discrimination laws;
 - b. Ensure that the factors used to determine the time, place, location, duration, and security at public meetings are developed and applied in a non-discriminatory manner;
 - c. Develop, publicize, and implement written public participation procedures (consistent with the federal civil rights laws and the EPA's Public Involvement Guidance),⁷ that include implementation of the following steps for effective public participation that is accessible to all persons regardless of race, color, sex, national origin (including LEP), age, and disability each time PDEQ engages in a public participation or public involvement process:
 - i. State how PDEQ will meaningfully engage the public in general about its programs, activities, and services;
 - ii. Distinguish between processes that do or do not involve public engagement beyond public notice;
 - iii. Specify communication of public notice methodologies used, clearly communicating the determining criteria used for determining whether to have any discretionary public engagement events;
 - iv. Address how PDEQ will communicate and engage with the public prior to and during its programs, activities, and services (e.g., communicating how the public can request to participate during public engagement opportunities such as townhall meetings, etc.), establish procedures for submitting written public comments, and how to request a discretionary hearing and how to request to participate in hearings; and
 - v. Describe the methods PDEQ will implement to ensure the public can access publicly available information and vital

⁶ See EPA Guidance: <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>.

⁷ 71 F.R. 14207, 14210-11 (March 21, 2006) (located at <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>).

documents regarding its programs, activities, and services.
This should further include:

- a) Clear instructions about where and how to efficiently access PDEQ's existing electronic and hardcopy document repositories;
 - b) A plan to improve these repositories if necessary, and to implement systems to allow the public to access these repositories; and
 - c) If PDEQ does not already have such document repository systems in place to improve upon as indicated above, PDEQ will endeavor to create document repositories to be made available to residents. If PDEQ creates such a system, then the system should follow the guidelines provided in subsections (a) and (b) above.
- vi. Provide a contact list for relevant staff members on PDEQ's website, including phone numbers and email addresses, to allow the public to communicate via phone or internet;
 - vii. Develop a list of equity in public participation concerns raised by the public (including complaints filed under the federal nondiscrimination laws) over the three (3) years prior to the creation of the PPP, and actions undertaken in response to such concerns;
 - viii. Develop and implement a detailed plan of action (including outreach activities) PDEQ will take to address concerns raised by the public;
 - ix. Develop and implement a contingency plan for unexpected events that may impact public meetings or other public participation avenues;
 - x. Identify location(s) where public meetings will be held (considering the availability and schedules of public transportation), and ensure that the location(s) will allow for meaningful participation/involvement by individuals with disabilities;
 - xi. Develop and maintain a list of contact names for obtaining, at no cost, reasonable accommodations for individuals with disabilities and language assistance services for limited-English proficient persons, including translation of vital documents

and/or interpreters for meetings; and

- xii. Develop and maintain a list of appropriate local media contacts (based on the cultural and linguistic needs of the community).
- d. PDEQ will ensure that any public meetings occurring virtually are held in such a manner as to ensure the meaningful participation/involvement of individuals with limited English proficiency and individuals with disabilities. If a virtual meeting is held in lieu of an in-person public hearing, such meetings will be held on platforms allowing for the same equivalent transcription to occur that would generally be mandatory for an in-person public hearing and will ensure that transcripts and/or video recordings are made available in the same manner as would occur for an equivalent in-person hearing.
 - e. PDEQ will ensure that a PPP is developed for each action requiring a Public Participation Plan. For each specific PPP, PDEQ will:
 - i. Develop a description of the relevant community affected by the project undergoing public participation (including demographics, history, and background, such as, composition of the affected area by race, national origin and other characteristics, has less than a high school education, has members of households who speak a language other than English and/or speak English less than very well, has a history of filing complaints, and has limited access to traditional communication channels and technology);
 - ii. Ensure that the specific PPP complies with Section III.D.1.c, as applicable, above.
- 2. PDEQ will provide a mechanism for residents to access relevant hard copy information in a centralized public location near where the proposed PDEQ activity will be carried out, in addition to providing the public with online information relating to that activity. Following the principles outlined in Section III above, PDEQ will consider whether the action under consideration may merit expanded public notice. In a case where PDEQ determines, using the principles outlined in Section III above, that a proposed action, may merit expanded public notice, PDEQ will create a PPP following the steps outlined in sub-section (c) above solely relating to the action under consideration.
 - 3. Within 90 days of the effective date of this Agreement, PDEQ will post a draft of the PPP developed for a 30-day public comment period, for the

public and stakeholders to provide comments and suggestions. PDEQ will ensure that the draft PPP is accessible to all individuals including Persons with limited English proficiency and persons with disabilities, and that the notice requesting public comment is also translated into the appropriate non-English languages and provides a contact person(s) the public may reach if they have questions.

4. Within 30 days following the end of the 30-day public comment period, PDEQ will submit a final draft of the PPP, incorporating, as appropriate, any changes in response to public comment and a summary of the public comments received, to OECRC. OECRC will strive to review the final draft PPP and provide comments to PDEQ within 30 days of its receipt of the final draft PPP. Within 120 days of receiving OECRC's comments and plan approval, PDEQ will incorporate changes based upon OECRC's comments and prominently publish in print in publicly accessible locations such as public libraries and on its website the final PPP in English and translated in the prominent LEP languages identified within the Language Access Plan, to be developed per Section E below.
5. Every six months for a period of two years (i.e., 24 calendar months) after the effective date of the Agreement, PDEQ will provide OECRC with a report on PDEQ's efforts implementing the Public Participation Plan. The report, at a minimum, will include the date and names of events that PDEQ held; copies of meeting notices and translations thereto; description of how PDEQ made vital documents related to the Public Participation purpose; and such other information as PDEQ deems appropriate to demonstrate its adherence to the Public Participation Plan.

E. PDEQ's Language Access Plan (LAP) to Provide Meaningful Access for Persons with Limited English Proficiency (LEP)

1. PDEQ will conduct an appropriate analysis as described in EPA's LEP Guidance⁸ to identify the appropriate language groups in the areas within PDEQ's service area that may need language services and determine what language services or mix of language services PDEQ needs to provide (e.g., qualified interpreters and translators), to ensure that individuals with LEP can meaningfully participate in PDEQ's programs, services, and activities.
2. PDEQ will review, revise, publicize, and implement its written Language Access Plan to ensure meaningful access to all PDEQ's programs, services, and activities for individuals with LEP, at no cost to those individuals. As part of this plan, PDEQ will:

⁸ Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 F.R. 35602, <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

- a. Translate vital documents⁹ of general interest into the appropriate languages as identified through the process described in E.1. above, for individuals with LEP who are served by or likely to be encountered by PDEQ's programs, services, and activities, including any public notices regarding drinking water concerns or other public health and/or environmental notices and violations;
 - b. Translate vital documents of individual interest to a particular individual with LEP or group individuals with LEP (e.g., an individual with LEP wishing to file a grievance);
 - c. As appropriate and consistent with the LAP, provide for simultaneous oral interpretation by qualified interpreters of live proceedings (e.g., town hall meetings and public hearings) and programs, services, and activities in prominent and other requested languages, and the ability for individuals with LEP to participate in those proceedings to the same extent as persons with English proficiency can participate (e.g., accommodate LEP individuals wishing to provide comments during meetings, hearings, proceedings, programs, services, and activities hosted by PDEQ);
 - d. PDEQ will create a mechanism to allow the public to provide feedback on the accuracy and quality of PDEQ's language assistance services, including what documents the public considers vital to public participation;
 - e. Use social media platforms to provide translated vital information and increase messaging to populations with LEP;
 - f. Consider hiring and appointing more diverse staff with bilingual capabilities to better serve the public; and
 - g. Identify in the LAP how PDEQ will provide qualified language services, for example, whether through qualified employees or through a contract for such services.
2. Within 90 days of the effective date of this Agreement, PDEQ will post a draft of the LAP for a 30-day public comment period, for the public and stakeholders to provide comments and suggestions. PDEQ will ensure the draft LAP is accessible

⁹ Whether or not a document (or the information it disseminates or solicits) is "vital" may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurate or in a timely fashion. (See EPA's 2004 Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons at <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>)

to all individuals including Persons with limited English proficiency and persons with disabilities, and that the notice requesting public comment is also translated into the appropriate non-English languages and provides a contact person(s) the public may reach if they have questions.

3. Within 30 days following the end of the 30-day public comment period, PDEQ will submit a final draft of the LAP, incorporating, as appropriate, any changes in response to public comment and a summary of the public comments received, to OECRC. OECRC will strive to review the final draft LAP and provide comments to PDEQ within 30 days of its receipt of the final draft LAP. Within 30 days of receiving EPA's comments, PDEQ will incorporate EPA's comments and finalize the LAP within 30 days. PDEQ will publish the final LAP, translated in all appropriate languages, on its website and in print.
4. Every six months for a period of two years (i.e., 24 calendar months) after the effective date of the Agreement, PDEQ will provide OECRC with a report PDEQ's efforts implementing the LAP. The report, at a minimum, will include the date and names of events when PDEQ provided language access services; the language access provided; the type of accommodations provided (e.g., translation, interpretation); and copies of the translation provided.

F. PDEQ Plan to Ensure Meaningful Access for Persons with Disabilities

1. PDEQ will develop, publicize and implement a Disability Access Plan (DAP) to ensure meaningful access to all PDEQ programs, services and activities for individuals with disabilities.¹⁰ As part of the DAP's development, PDEQ shall solicit and consider public input into the above elements of the DAP.
2. PDEQ will respond to requests for reasonable accommodations including providing, at no cost, auxiliary aids and services to individuals with disabilities, (including qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals, as necessary), to ensure an equal opportunity to participate fully in benefits, activities, programs, and services provided by PDEQ in a timely manner in such a way as to protect the privacy and independence of the individual.
3. PDEQ will ensure that its facilities and other facilities utilized by PDEQ in the course of its public outreach are physically accessible to individuals with disabilities. PDEQ will also ensure that its virtual public hearings are made accessible to individuals with disabilities in the same manner as provisions for in-person hearings (including having qualified interpreters on virtual hearings for individuals who are deaf or hard of hearing, as necessary).

¹⁰ See Disability Nondiscrimination Plan Sample, at https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdfhttps://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf

4. Within 90 days of the effective date of this Agreement, PDEQ will post a draft of the DAP for a 30-day public comment period, for the public and stakeholders to provide comments and suggestions. PDEQ will ensure that the draft DAP is accessible to persons with limited English proficiency and that the notice requesting public comment is also translated into the appropriate non-English languages and provides a contact person(s) the public may reach if they have questions.
5. Within 30 days following the end of the 30-day public comment period, PDEQ will submit a final draft DAP, incorporating, as appropriate, any changes in response to public comment and a summary of the public comments received, to OECRC. OECRC will strive to review the final draft DAP and provide comments to PDEQ within 30 days of its receipt of the final draft Plan. Within 120 days of receiving OECRC's comments and plan approval, PDEQ will incorporate changes based upon OECRC's comments and prominently publish in print and on its website the final DAP in English and translated in the prominent LEP languages identified within the LAP developed above in Section E.
6. Every six months for a period of two years (i.e., 24 calendar months) after the effective date of the Agreement, PDEQ will provide OECRC with a report PDEQ's efforts implementing the DAP. The report, at a minimum, will include date and names of events when PDEQ provided disability accommodations; and the type of accommodations provided.

G. Training

1. Within 180 days of the effective date of this Agreement, PDEQ will forward to EPA for review a draft plan that ensures all its staff and contractors, as applicable, have been appropriately trained on federal non-discrimination obligations, anti-bias and cultural competency, and all plans, policies and procedures created and implemented as part of this Agreement.
 - a. PDEQ may request assistance from EPA for any of the training required in this Agreement.
 - b. PDEQ will use reasonable efforts to engage representatives of communities with environmental justice (EJ) concerns to participate in staff training events and programs. Such communities with EJ concerns can be identified using EJScreen or equivalent platforms.
2. Within 120 days of the effective date of this Agreement, PDEQ will provide to EPA for review a draft plan for ensuring that such training is a routine part of the on-boarding process for new employees and contractors and is given regularly as refresher training to all employees. OECRC will strive to review the draft training plan and provide any comments to PDEQ within 30 days. PDEQ will respond to

OEERC comments, discuss with OEERC any concerns if necessary. As possible PDEQ will issue the staff planning plan for public comment for at least 30 days.

3. Within 30 days of receiving OEERC's comments, PDEQ will forward a final copy of the training plan to OEERC and implement the above plan.
4. Every six months for a period of two years (i.e., 24 calendar months) after the effective date of the Agreement, PDEQ will provide OEERC with a report PDEQ's efforts implementing the staff training plan. The report, at a minimum, will include the training content (e.g., PowerPoint presentation given at training events); the number, names, title, and PDEQ subdivision affiliations; and percentage of PDEQ employees who have completed the training.

IV. GENERAL

- A. In consideration of PDEQ's implementation of its obligations described in Section III of this Agreement, EPA will end its investigation of EPA File No. 01RNO-22-R9 and not issue a decision containing findings on the merits of the complaint.
- B. EPA will monitor the implementation of the obligations in Section III of this Agreement to ensure they are fully implemented. Once the obligations of this Agreement are satisfied, EPA will issue a letter documenting closure of its monitoring actions in EPA File No. 01RNO-22-R9 and closure of the complaint as of the date of that letter.
- C. EPA will, upon request, provide technical assistance to PDEQ regarding any of the civil rights obligations previously referenced.

V. COMPUTATION OF TIME AND NOTICE

- A. As used in this Agreement, "day" will mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period will run until the close of business of the next working day.
- B. Service of any documents required by this Agreement will be made personally via electronic mail as outlined below. Documents forwarded by email for review are to be sent in native format for draft documents and PDF format for documents intended to be final.
- C. Electronic documents submitted by PDEQ to EPA via email will be sent to the following email address: temple.kurt@epa.gov.
- D. Documents submitted by EPA to PDEQ will be sent to the following email address: CivilRights.PDEQ@pima.gov.

VI. EFFECT OF THE AGREEMENT

- A. PDEQ understands that, if necessary, EPA may visit PDEQ, interview staff, and request such additional reports or data as are necessary for EPA to determine whether PDEQ has fulfilled the terms of this Agreement.
- B. PDEQ understands that the EPA will not close its monitoring of this Agreement until EPA determines that PDEQ has fully implemented this Agreement and that a failure to satisfy any term in this agreement may result in the EPA re-opening an investigation.
- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to PDEQ's program or authorities, or for other good cause, the Party seeking a modification will promptly notify the other in writing, setting forth the facts and circumstances justifying the proposed modification. Any modification(s) to this Agreement will take effect only upon written agreement by the Director of PDEQ and the Director of OECRC.
- D. This Agreement constitutes the entire Agreement between PDEQ and the EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person will be construed to change any commitment or term of this Agreement, except as specifically agreed to by PDEQ and the EPA in accordance with the provisions of Section VI(C) above.
- E. This Agreement does not affect PDEQ's continuing responsibility to comply with Title VI or other federal nondiscrimination laws and the EPA's regulations at 40 C.F.R. Parts 5 and 7, nor does it affect the EPA's investigation of any other Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Director, in their capacity as an official of PDEQ, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of OECRC has the authority to enter into this Agreement.

On behalf of Pima County Department of Environmental Quality:

Scott DiBiase, Director

5/31/2024

Date

On behalf of the U.S. Environmental Protection Agency:

Adam Wilson, Acting Deputy Director
Office of External Civil Rights Compliance
Office of Environmental Justice and External Civil Rights

Date