

**ARIZONA CONSTRUCTION STORMWATER GENERAL PERMIT (CGP)
RESPONSE TO COMMENTS
(A.A.C. R18-9-A908(E)(2))
May 29, 2013**

Administrative Record

The stormwater Construction General Permit (CGP) authorizes the discharge of stormwater and allowable non-stormwater associated with construction activities from large and small sites (see 40 CFR 122.26(b)(14)(x) and 122.26(b)(15), respectively). Since 1992, USEPA has issued a series of stormwater CGPs that provide permit coverage in states where USEPA is the permitting authority.

The Arizona Department of Environmental Quality (ADEQ or Department) has had authority (USEPA delegated authority) for implementation, compliance and enforcement of some form of a stormwater Construction General Permit since December 5, 2002. Over the years, this permit has authorized the discharge of stormwater associated with construction activity; renewable every five years (2003, 2008 and now 2013). The CGP 2008 expired on February 28, 2013, but was administratively continued indefinitely for operators that were covered under the permit as well as coverage for any new operators after it expired. This administrative continuance was made possible by SB1289 during the 2012 Legislative session, which amended the AZPDES statute by adding ARS § 49 – 255.01(M). This amendment meant that construction operators could continue to apply for stormwater permit coverage under the 2008 CGP after February 28, 2013, until the Department approved and issued the 2013 CGP.

The 2013 CGP includes modifications to the 2008 CGP that were necessary to implement USEPA's new narrative technology-based effluent limitations for Construction and Development point sources, known as the "C&D rule." The C&D rule, which became effective February 1, 2010, applies to all permitted discharges from construction sites. As a result of the new rule operators must minimize the discharge of pollutants by implementing erosion and sediment, stabilization and pollution prevention controls (see 40 CFR 450.21(a) through (f)) to assure that Surface Water Quality Standards are maintained.

ADEQ first presented a completed draft of a new CGP for stakeholder review and discussion in February 2012, patterned after the content and organization of EPA's 2012 CGP issued February 15, 2012. The Department conducted an extensive informal stakeholder review process from late winter into early summer 2012 on an approximately bi-weekly schedule. Two additional stakeholder meetings were held in mid-September, following release of a final draft in August 2012. These are referred to as "stakeholder meetings" in the Department's responses, below.

On November 23, 2012, the public notice for the draft CGP 2013 was published in the Arizona Administrative Register. The Public Comment period closed on January 11, 2013.

The Fact Sheet (the supporting document that describes the permit's scope and rationale for coverage) sets forth the basis for permit conditions to be applied statewide through issuance of the renewal of the Arizona Pollutant Discharge Elimination System (AZPDES) general permit for stormwater discharges associated with construction activity or Construction General Permit – 2013 CGP.

In addition to changes to the permit made in response to the comments, the Department has made several other changes to the permit in consideration of public comments, which are also documented below. Finally, several minor corrections were made to the permit, fact sheet and appendices pertaining to formatting, punctuation, spelling, erroneous cross-references, eliminating repetitive language (where appropriate) and removing the personal pronoun "you" and "your" (in the permit).

The comments are grouped in a tabular format according to the section of the permit they apply to, and where appropriate, comments on the Fact Sheet are included where they relate to those sections. Other comments on the Fact Sheet are answered in a separate table at the end.

Comments were received on the public noticed draft permit and Fact Sheet from the following entities:

ADOT – Arizona Dept. of Transportation	LSD – Logan Simpson Design
Chamber – Arizona Chamber of Commerce	MCo – Maricopa County
EPA – US Environmental Protection Agency	Mesa – City of Mesa
HBA – Home builders associations of central Arizona (HBACA) and southern Arizona (SAHBA)	PHX – City of Phoenix
	Rosemont – Rosemont Copper Corp.

GENERAL COMMENTS AND RESPONSES ON PROPOSED PERMIT:

General Comments – Subject	Comment	ADEQ response
Definition and use of “construction support activity” Appendix A and Parts 1.2, 1.3(1)(c), 1.5(1), 3.1.2.1, 6.3(5)(b), 6.3(6)(g), 6.3(9), 6.7(2),	<u>Mesa</u> : Commented that although the permit includes a definition of “construction support activities”, there are numerous places in the permit that refer only to “support activities”. The commenter requested ADEQ use consistent language throughout the permit.	ADEQ has amended the “construction support activities” definition in Appendix A of the permit to clarify that when “support activities” is used alone (i.e., without “construction”) it means “construction support activities”. ADEQ believes it is also helpful to illustrate examples (they are listed in the definition) of these support activities in various places in the permit and deleting them, as the commenter requested, may actually contribute to operators’ confusion about what support activities are regulated.
MS4 responsibility	<u>MCo</u> : add wording in the permit declaring the responsibility of MS4s over construction sites, or describe why ADEQ has not provided more clarity of the authority that has been required to be held by the MS4s over construction sites.	The MS4s are responsible for stormwater discharges from their conveyance systems to Waters of the U.S. As such they are required under 40 CFR Part 122.26 (Phase I) and 40 CFR Part 122.34 (Phase II), to implement specific programs and conduct specific activities. Including developing ordinances to control pollutants in stormwater entering their systems. The CGP cannot authorize/ delegate any authority to the MS4s.
Discharges upgradient of an impaired/ OAW Parts 1.3(2)(c), 1.5(3), 1.5(4)(b), 2.2(2)(b), 2.3(2)(n), 2.3(3)(b) (c) & (d), 4.2(3), 4.2(4), 6.3(9), 7.0, 7.1,	<u>Rosemont</u> : It would be more logical to refer to a <u>discharge</u> being located within a certain distance of an OAW, rather than a <u>site</u> ; likewise, more logical to refer to discharges "to or within 1/4 mile upstream of an OAW." A site located downstream of an OAW, and therefore having no potential to impact the OAW, should not be subject to this prohibition. In addition, Rosemont suggests that the first sentence of Part 1.5(3) refer to "discharges" to or within 1/4 mile upgradient of an impaired water, rather than referring to portions of a "site" being located "within 1/4 mile of" an impaired water. If a site discharges	The Department understands the commenter’s point in suggesting that only those discharge points that are within a specified distance should be subject to additional permit requirements. Some portions of the site may be within the specified distance and others may not and, in the commenter’s view, should not be subject to additional permit requirements, such as monitoring, inspections, etc. Other commenters also suggested that the additional review be limited to sites that are upstream of the impaired water or outstanding Arizona water (OAW). ADEQ’s review of the draft permit as a result of this comment revealed

General Comments – Subject	Comment	ADEQ response
and 7.2	downgradient of an impaired water, it should not be subject to the additional eligibility requirements of Part 1.5. Rosemont suggests that monitoring should only be required if discharges are occurring to or within 1/4 mile “upgradient” of an OAW or impaired water.	<p>that permit language was internally inconsistent and unclear about when additional permit requirements (monitoring, reporting, SWPPP submittal, etc.) are required. Various parts of the permit, and the associated Fact Sheet sections were revised (including Parts 1.5(3) and 1.5(4), 2.3(3)(d), Part 7, and elsewhere) to correct and/ or clarify that additional permit requirements are necessary when any portion of the construction site is within 1/4 mile of an impaired water or OAW. Pursuant to A.A.C. R18-11-107.01(F), discharges that may degrade existing water quality in an OAW or water listed as impaired are subject to further review. The 2013 CGP establishes additional requirements for construction sites that are within 1/4 mile of impaired waters and OAWs to satisfy this requirement to ensure these sensitive waters are not degraded. This approach is consistent with the 2008 CGP (Parts I.D(4) and (5)).</p> <p>The specification for sites located within 1/4 mile of an impaired water or OAW instead of discharges “to or within 1/4 mile upstream...” (as suggested by the commenter) is due to the inherent unpredictable nature of stormwater flow. Stormwater flow is influenced by such things as topography, mechanical lift stations, and intricate storm sewer systems that can and do re-route stormwater. As such the permit includes a 1/4 mile distance from the construction site to an impaired water or OAW.</p> <p>The permit specifies that sites within the 1/4 mile distance must submit the site specific SWPPP and include information about steps to be taken to ensure the waters are not degraded (see Parts 1.5(3) and 1.5(4)). One such step includes stormwater monitoring. However, the operator has the option to provide a rationale as to why the construction activity will not degrade the impaired water or OAW in lieu of monitoring. Information documenting that the discharge is downgradient of the impaired or OAW water would be one rationale that the discharge would not impact the water and therefore, monitoring is not required. The rationale must be included in the SWPPP for ADEQ’s evaluation.</p>
Limitations of Coverage – Part 1.5	Revision to permit made by the Department.	ADEQ deleted “Discharges to” in Parts 1.5(3) & 1.5(4) because this limitation applies to any portion of an operator’s construction site, not just a discharge that is located within 1/4 mile of a receiving water that is listed as either an OAW or impaired water.
Notice of Intent requirements – Part 2.3(2)(o) &	Revision to permit made by the Department.	ADEQ deleted the requirement to include the parameter causing the impairment and whether or not a TMDL has been completed from the NOI requirements, because they are not requested in the NOI.

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2(p)		However, this information should be included in the SWPPP when submitted to ADEQ.
Notice of Termination submittal – Parts 2.5(1), 6.1(4) and 6.3(5)(a)	Revision to permit made by the Department.	The phrase, “an NOT is filed” was replaced with “an NOT is submitted to ADEQ”.
Part 3.0	Revision to permit made by the Department.	ADEQ moved the first paragraph of Part 3.1 to become the introductory paragraph to Part 3.0, above “Waiver for ongoing construction projects”. By doing this, the paragraph clarifies operators must comply with both Part 3.1 (Non-numeric Effluent Limitations and Control Measures) and Part 3.2 (Water Quality Standards). Note that the term “waiver” in Part 3.0 was replaced with “exception” in response to an individual comment on Part 3.0, below.
Part 1.5(3)(b) and Part 7.1	Revision to permit made by the Department.	The term, “reasonable expectation” was replaced with “reasonable potential” in two places. This was done to be consistent with 40CFR 122.44(d)(1), especially § 122.44(d)(1)(ii). This change is also consistent with the use of the term in Part 4.2(4) of Inspection Schedule (inactive/ unstaffed sites).
Appendix A, Definitions	Revision made to permit by the Department	ADEQ deleted the repetitive phrase “for the purposes of this permit” in several definitions and inserted it as a parenthetical in the title of Appendix A.

INDIVIDUAL COMMENTS AND RESPONSES ON THE PROPOSED PERMIT, APPENDICES AND FACT SHEET

Permit Part No./ subject	Comment	ADEQ response
1.3(1)(c) – stormwater discharges from construction support activities	ADOT: clarify permit expectations for a single operator utilizing a support activity, like a staging area or source of material, for multiple unrelated projects.	The CGP can include coverage of a support activity (a staging area, an asphalt batch plant or a borrow pit (material source)) <u>only</u> if that activity is dedicated solely to one construction project that is covered by the CGP. If the support activity supports multiple projects, then the activity must obtain separate industrial stormwater permit coverage under the Multi-Sector General Permit (2010 MSGP). No change was made to the permit because this restriction is already addressed in Part 1.3(1)(c).
1.3(2)(a)	Chamber & Rosemont: remove 1st sentence; “reduce or eliminate all allowable non-stormwater discharges” is excessively burdensome and unnecessary, since the next sentence says use “appropriate control measures”; the concept that ADEQ is trying to	Chamber & Rosemont: While the permit does allow certain non-stormwater discharges, the operator must implement appropriate controls to manage these discharges. One way of controlling them is to reduce or eliminate the discharges to the extent practicable. The

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	<p>address in the first sentence is already addressed under Part 1.4 and should not be repeated in Part 1.3.</p> <p><u>LSD</u>: delete (x) & (xi); DeMinimus permit should cover this separately</p>	<p>stem paragraph in Part 1.3(2)(a) of the permit was revised to clarify this point.</p> <p><u>LSD</u>: Potable water supply flushings and hydrostatic water testing are de minimus discharges and are commonly associated with construction activities. They are an allowable non-stormwater discharge in this permit, provided that they are managed by appropriate control measures, including limiting the volume and frequency of the discharge. This reduces the administrative burden on operators to apply for multiple permits. However, operators may choose to obtain De minimus General Permit coverage for eligible non-stormwater discharges if they prefer. No change to the permit.</p>
<p>1.3(2)(a)(ii), (iv), (xii) & Note – dust control water</p>	<p><u>Chamber & Rosemont</u>: remove or revise: “Water used to control dust, provided reclaimed water or other wastewaters are is not used.” Remove “other wastewaters;” The reference to “other wastewaters” is not mandated by any regulatory provisions and does not promote conservation of water.</p> <p>Delete / revise “Note”; only applies to reclaimed water and not applicable to “other wastewaters,” which is an undefined term.</p> <p><u>Rosemont</u>: why are authorized discharges limited only to hydrostatic testing of “new” pipes, tanks or vessels? Why not allow hydrostatic testing of existing pipes, tanks or vessels if potable water used?</p>	<p><u>Chamber & Rosemont</u>: As the note states Part 1.3(2)(a)(ii) refers to waters used for dust control that may be discharged to Waters of the U.S. This does not preclude the use of reclaimed water or other wastewater from being used for dust control if it is not discharged. Part 1.3(2)(a)(ii) and the “Note” that follows 1.3(2)(a) were modified with “process” wastewater for clarity. “Process wastewater” is defined in A.A.C. R18-9-A901.29.</p> <p><u>Rosemont</u>: Hydrostatic testing of existing pipes, tanks or vessels are not allowed chiefly because potable water may mix with pollutants left over in those vessels if they were used for other purpose (such as oils, solvents). The same limitation is found in the MSGP; this type of a discharge requires permitting under the DeMinimus General Permit.</p>
<p>1.3(2)(a)(xiv) and 3.1.4 (uncontaminated waters ...)</p>	<p><u>Chamber, HBA & Rosemont</u>: Change the language in (xiv) to allow discharge of construction dewatering water provided that it is managed by an appropriate control in accordance with Part 3.1.4. As is (xiv) is not consistent with Dewatering Practices (3.1.4), which authorizes the discharge of “uncontaminated waters” obtained from dewatering operations/foundations only if appropriate controls used.</p> <p><u>EPA</u>: see their related comment on Part 3.1.4, below.</p>	<p>The permit was revised to include a requirement in Part 1.3(2)(a)(xiv) that the discharges be managed as required by Part 3.1.4. See also changes to Part 3.1.4 described below.</p>
<p>1.3(2)(b) and Part 3.1.4</p>	<p><u>Chamber</u>: revise language to include the relevant allowable non-stormwater discharge SWPPP requirements from Part 3.1.4. The application of the requirements to all allowable non-stormwater discharges in Part 3.1.4 is confusing because Part 3.1.4 applies to dewatering and not to all types of allowable non-stormwater discharges.</p> <p><u>HBA</u>: language could be misconstrued as applying the requirements of Part 3.1.4 (dewatering practices) to all types of allowable [non-]storm water discharges. This should be clarified in</p>	<p><u>Chamber’s</u> and <u>HBA’s</u> comments were addressed with the following revisions:</p> <ul style="list-style-type: none"> • Part 1.3(2)(b) was deleted because Part 6 (SWPPPs) addresses this issue. In addition, the term “Stormwater” was deleted from Part 3.0, 5.0, 6.3(8) and elsewhere where it was appropriate, to be consistent with the definition of Control Measure in Appendix A. “Stormwater control” is not defined in the permit. • Part 3.1.4 was revised, as is discussed in response to the comment

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	the fact sheet. cf. <u>EPA</u> comment, Pt. 3.1.4.	on Part 3.1.4, below.
1.3(2)(c)	Rosemont: It would be more logical to refer to a <u>discharge</u> being located within a certain distance of an OAW, rather than a <u>site</u> ; likewise, more logical to refer to discharges "to or within 1/4 mile upstream of an OAW."	See General Comments regarding upgradient discharges for response to this comment.
1.4 Prohibited Discharges; Fact Sheet, Sec. III.3.1, p. 38 – 39;	<p><u>LSD</u>: Change last sentence of the first paragraph to read: "The following are considered both discharges of pollutants and prohibited discharges:" (reflects the definitions in Appendix A of this permit and would include surface runoff instead of only addressing discharges from the site.)</p> <p><u>LSD</u>: Consider adding "provided that the rinsate is not discharged to the ground or offsite" to p. 38 of Fact Sheet and Part 1.4(1) of CGP</p> <p><u>Rosemont</u>: ADEQ deleted concrete washout discharges "managed by an appropriate control"; also, toxic spills added. Revise so that the list of prohibited discharges more closely tracks the ELG (40CFR § 450.21(d)(3) and (e)).</p>	<p><u>LSD</u>: The term discharge as defined in Appendix A and in 40 CFR 122.2 is synonymous with "discharge of pollutants". No change is required.</p> <p><u>LSD, Rosemont</u>: The language in Part 1.4(1) and (2) was restored to match Part 2.3.1 of EPA's 2011 CGP ("unless managed by an appropriate control, etc.").</p> <p>The purpose of Part 1.4 of the draft 2013 CGP is not to perfectly track 40CFR Part 450.21(e) otherwise the rule would have been cited there. Instead, this language now closely tracks Part 2.3.1 of EPA's 2011 CGP.</p> <p>The last sentence of the first paragraph of section II of the Fact Sheet, p. 40, ("Remove and dispose of concrete waste consistent with the handling of other construction wastes ... ") is considered sufficient to address this rinsate concern.</p> <p>The "appropriate control" language was originally removed because ADEQ is unaware of any practical technology that could work to allow wastewater from concrete washout to be discharged under this permit. Furthermore, by including the "appropriate control" language, operators might be misled into believing concrete washout can be discharged under some circumstances. For this reason, the Section III.3.1 of the Fact Sheet explains in some detail the requirements of a Type 1 general Aquifer Protection Permit for discharges from concrete wash-out. By restoring all original USEPA permit language to the 2013 CGP, the potential for this confusion should be eliminated. The commenter should also note that the "appropriate control" language was restored to Part 1.4(2), which is also in the EPA's permit, but is not in 40 CFR 450.21(e). In this case, appropriate controls do exist and are discussed in Part 3.1.3.1(3).</p> <p>Part 1.4(5) was not removed from the permit. The justification for listing toxic or hazardous substances as a prohibited discharge is found in the Fact Sheet, Section V.1, p. 53 (Corrective Actions): "With respect to the triggering condition in [prohibited discharge in Part 1.4] above, Part VI (Special Conditions) of the 2008 CGP also prohibited the discharge of hazardous waste or oil released from an oil spill, but</p>

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		<p>did not explicitly include corrective action provisions regarding prohibited discharges. These materials are included as prohibited discharges in Part 1.4 of the 2013 CGP.” The release or spill of a toxic/ hazardous substance must be addressed in the context of a corrective action.</p> <p>Furthermore, EPA’s 2012 CGP lists toxic/ hazardous substances in Part 2.3.1, Prohibited Discharges. A new paragraph with additional discussion was added to ADEQ’s Fact Sheet (see p. 10).</p>
1.5(3)	<p><u>Chamber</u> & <u>HBA</u>: requirements should be limited to receiving waters impaired for a sediment-related parameter. The regulatory burden imposed through the current language is not supported by any corresponding environmental benefit.</p> <p><u>Rosemont</u>: refer to "discharges to or within 1/4 mile upgradient of an impaired water", rather than referring to portions of a "site" being located "within 1/4 mile of" an impaired water.</p>	<p><u>Chamber</u> / <u>HBA</u>. While sediment alone is a pollutant and contributes to an impairment, other pollutants commonly adhere to sediment particles and can be released when disturbed and/ or transported by water. In addition, it is possible for other pollutants to be discharged (e.g., gasoline, oil, trash, etc.) from construction sites. See definition at 40 CFR Part 122.2 and the definition of pollutant, Appendix A of the permit. No change was made to the permit.</p> <p><u>Rosemont</u>: See General Comments regarding upgradient discharges for response to this comment.</p>
1.5(3)(b) & 7.0	<p><u>Chamber</u>: remove SAP; remove OAW sampling & monitoring; no legitimate technical or legal rationale for sampling & monitoring; cites high variability of SW discharge quality/ quantity in the arid west. ADEQ “shall not adopt any requirement that is more stringent ... “</p> <p><u>Rosemont</u>: does this require a soil sampling program be conducted prior to seeking coverage under the CGP if a site is within 1/4 mile of an impaired water? (example of Se in soils given)</p>	<p><u>Chamber</u>. To receive coverage under an AZPDES permit the discharge must not cause or contribute to an exceedance of a water quality standard. For OAWs that includes A.A.C R18-11-107.01(C)(3), which states “A person seeking authorization for a regulated discharge to a tributary to, or upstream of, an OAW shall demonstrate in a permit application or in other documentation submitted to the Department that the regulated discharge will not degrade existing water quality in the downstream OAW.” The monitoring requirement is within the authority of ADEQ and does not violate A.R.S. § 49-255.01(B). See 40 CFR 122.44(i) and 40 CFR § 122.48(b), which requires that all permits shall specify monitoring, when applicable.</p> <p><u>Rosemont</u>: The answer to this question is always site-specific and depends on what information is needed to satisfy the antidegradation rule in A.A.C. R18-11-107. In most situations, soil sampling would not be required, as the pollutants likely to be in the discharge (if any) would already be known from existing data. ADEQ may require soil sampling, if in its opinion, the information in the SWPPP indicated some doubt about the list of potential pollutant sources and pollutants likely to be present in the discharge. No change was made to the permit.</p>
1.5(4)(b) & 7.0	<p><u>Chamber</u>: remove OAW sampling & monitoring</p> <p><u>Rosemont</u>: change to refer to discharges to or within 1/4 mile</p>	<p><u>Chamber</u>: See responses to Part 1.5(3)(b) above and Part 7.0.</p> <p><u>Rosemont</u>: See General Comments regarding upgradient discharges</p>

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	upgradient of an OAW.	for response to this comment.
1.5(5)(e)	<u>Chamber, HBA & Rosemont</u> : The language attempts to impose minimization and stabilization requirements on exempt construction activities; exempt without any conditions (see, e.g., A.A.C. R18-9-A902(B)(8)(c)). Violates ADEQ's statute "shall not adopt any requirement that is more stringent than or conflicts with any requirement of the clean water act." A.R.S. § 49-255.01(B).	Part 1.5(5) was removed from the permit, but this does not negate the fact that if an operator is found to be discharging above water quality standards, he will be required to obtain permit coverage in accordance with A.A.C. R18-9-A902(B)(8)(d) and 40 CFR 122.26(b)(15)(ii). Also in response to this comment, Part 1.2 was revised with a new paragraph to allow coverage under this permit if the director invokes his authority under A.A.C. R18-9-A902(B)(8)(d).
1.6.1 and Fact Sheet, Sec. II.1.6.2, p. 13	<u>Mesa</u> : TMDL & Equivalent Analysis Waivers were options in the USEPA 2012 CGP, and should therefore be included in the ADEQ 2013 CGP. <u>LSD</u> : Smart NOI/ erosivity waiver – include alternative method of the EPA approved "R" value calculation identified in and in accordance with Chapter 2 of <i>Agriculture Handbook Number 703</i> , etc.	<u>Mesa</u> : Several stakeholders asked about the purpose for these waivers and the process for obtaining one. The consensus indicated there was no reason to adopt them without justification or defined procedures. The waivers are new in the 2012 CGP and USEPA provides no guidance on their purpose or instances when they might be used in either the associated Fact Sheet or online. TMDL and equivalent analyses waivers are established in rule (40 CFR 122.26(b)(15)(i)(B)) and as such could be implemented for an operator on a site-specific basis at any time, when applicable, without being included in the permit. Therefore, no change was made to the permit. <u>LSD</u> : The "additional method" requested by the commenter (the EPA approved "R" value calculation) is <u>the</u> method adopted by ADEQ, which has been followed since primacy for this program was established in 2002. See 40 CFR 122.26(b)(15)(i)(A). The SMART NOI uses this method when processing waiver requests. To assure consistency, and eliminate errors in the calculation and eliminate excessive review times, ADEQ requires the calculation be done by the SMART NOI system.

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Authorization – Part 2.1.1	<u>LSD</u> : Add "unless already covered by an alternative AZPDES Permit (i.e. ADOT as a department who has an individual permit)."	Language "or an alternative AZPDES permit" was added to Part 2.1.1..
2.2(2) 2.2(2)(b),	<u>Rosemont</u> : (a) – delete "and implement" (b) – revise Part 2.2(ii)(b) to include 'upgradient'.	a.) The requested change was made. The point at which an NOI is submitted is not necessarily when a SWPPP is implemented, if construction does not start immediately. Operators must implement their SWPPPs at the time construction begins. b.) ADEQ believes Rosemont's reference to Part 2.2(ii)(b) is instead Part 2.2(2)(b). See General Comments regarding upgradient discharges for response to this comment (Part 1.3(2)(c), et al.).

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2.3(2)(d) & (m)	<u>Rosemont</u> : For large sites the requirement to estimate acreage to the nearest 1/2 acre is unreasonable and the requirement to list all environmental permits is overly broad.	The requirement for estimating to the 1/2 acre was deleted and the listing of environmental permits was narrowed to “water quality” permits.
2.3(2)(f)	<u>Rosemont</u> : presumes that this subparagraph is requesting the latitude and longitude of the single point at the site that is nearest to a receiving water. Large mine sites may have more than one receiving water. Our intent is simply to clarify that a single point is to be identified on the NOI, rather than the point closest to each receiving water if there is more than one such water. <u>Rosemont</u> also presumes that ADEQ understands that the “point” closest to the nearest receiving water may not always be where the discharge is occurring (i.e., the latitude and longitude may not correspond to an outfall).	Comment noted. The location of the discharge and receiving streams are required by A.A.C. R18-9-C901(D). Large sites will likely have several discharge points and they may also discharge to more than one receiving water. ADEQ changed “construction project or site” to “construction site” in the second line and inserted another sentence to clarify that the latitude and longitude closest to the impaired water or OAW must be provided when the site is located within 1/4 mile of an impaired water or OAW.
2.3(2)(n)	<u>Rosemont</u> : Change to refer to discharges occurring to or within 1/4 mile upgradient of impaired waters or OAWs.	See General Comments regarding upgradient discharges for response to this comment.
2.3(2)(r)	<u>Rosemont</u> : delete “All waiver certifications shall include the required fee”	There is a fee for waivers (\$750), but the reference does not belong here and was deleted; see Part 1.6(2) for waiver requirements.
[Chamber cited 2.2(3)(b) – believed to be Part 2.3(3)(b)]	<u>Chamber</u> : remove automatic extension of review period for impaired and outstanding Arizona waters. <u>Rosemont</u> : delayed authorization should only apply to discharges within 1/4 mile upgradient of OAW or impaired water for the following reasons: First, the phrase "potential ... to reach" is vague and confusing. Parts 1.5(3)(a) and 1.5(4)(a) require applicants to submit a copy of the SWPPP with their NOIs when located within 1/4 mile of an impaired water or OAW, but this section implicitly suggests that many other applicants should be submitting their SWPPPs (i.e., anyone with a discharge that has the "potential to reach" an impaired water or OAW). This creates significant confusion and uncertainty. Second, as was discussed in the MSGP process, the primary pollutant of concern for activities regulated by the CGP is sediment. Sediment tends to drop out relatively quickly in water, and not be carried long distances. ADEQ made this point when explaining why the impaired water and OAW provisions in the MSGP were more expansive than those in the current CGP, addressing facilities within 2.5 miles of impaired waters or OAWs. The balance of the proposed CGP is consistent with this explanation, imposing some additional requirements on facilities	<u>Chamber</u> , <u>Rosemont</u> : ADEQ revised the permit by removing the "potential to reach" language and replacing it with language about sites that are “located within 1/4 mile” of an impaired or outstanding Arizona water, See also General Comments regarding upgradient discharges for additional response to this comment. The automatic time extension applies only to construction sites that are located within 1/4 mile of an impaired water or OAW.

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	<p>within 1/4 mile of impaired waters or OAWs. However, Part 2.3(3)(b) seems to dramatically expand the potential scope of ADEQ review, potentially going well beyond even that authorized under the MSGP.</p> <p>Rosemont believes for the reasons described above that this provision is unnecessary and should be deleted. Proposed Part 2.3(3)(c) allows ADEQ to notify an operator that additional time is needed to review the proposed discharge, and other sections of the permit require applicants within 1/4 mile of an impaired water or OAW to submit a SWPPP along with the NOI. Taken together, these two provisions give ADEQ sufficient authority to review more carefully sites that have a realistic potential to impact impaired waters or OAW s through the discharge of the pollutant commonly associated with construction, namely sediment. Such an approach is more appropriate to a general permit than an amorphous "potential to reach" standard.</p>	
2.3(3)(c)	<p><u>Rosemont:</u> This Part should require ADEQ to identify specific SWPPP deficiencies or omissions if concluding that a submitted SWPPP is deficient or incomplete. General comments that control measures are insufficient, for example, are not adequate. Operators need to understand the specific basis for ADEQ's conclusions that a measure or measures is insufficient in order to revise a proposed SWPPP. Language similar to that in Part 6.6 may suffice (that part requires ADEQ to identify specific permit terms not being satisfied and those parts of the SWPPP that need changing to meet those terms).</p>	<p>Comment noted. The Department's notification will describe deficiencies when the SWPPP is reviewed. Please note that Part 6.3 describes the SWPPP contents and the Department always encourages operators to use its SWPPP checklist to ensure completeness and is available online at http://www.azdeq.gov/envIRON/water/permits/cgp.html . ADEQ modified Part 2.3(3)(c) in connection with this comment and Part 2.3(3)(b), above:</p> <ol style="list-style-type: none"> 1. ADEQ clarified in the first paragraph that the Department may require that the SWPPP be submitted for further evaluation if a review of the NOI merits it. This would apply to situations outside of those where a site is located within 1/4 mile of an impaired or outstanding Arizona water (see Parts 1.5(3)(a) and 1.5(4)(a). 2. A sentence was added to the second paragraph to clarify (and also harmonize with the monitoring program in Part 7) that, in cases where a review of a revised SWPPP is necessary, the Department may require operators to monitor their discharges if the SWPPP reveals that a discharge of pollutants may cause or contribute to an exceedance of an applicable water quality standard. <p>See General Comments regarding upgradient discharges for additional response to this comment.</p>
2.3(3)(d)	<p><u>Rosemont:</u> How does the Smart NOI system define "unless the site is located near an OAW or impaired water."? Consider</p>	<p><u>Rosemont:</u> The SMART NOI uses the latitude and longitude from the NOI (see Part 2.3(2)(f)) and draws a 1/4 mile radius around that</p>

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	<p>“nearness” to be 1/4 mile upgradient from discharge.</p> <p><u>Mesa</u>: Mesa requests that ADEQ remove the automatic authorization of CGP coverage 7 days after receipt of the NOI if ADEQ has not informed the applicant of a delay. Mesa considers this inconsistent with their MS4 permit that requires Mesa to have applicants for construction approval or authorization.</p>	<p>coordinate to determine if any portion of the site is located within 1/4 mile of an impaired water or OAW. Language in the second paragraph of Part 2.3(3)(d) was revised to clarify this point and make it consistent with similar language elsewhere in the permit. This will be evaluated by ADEQ upon SWPPP review. See also General Comments regarding upgradient discharges for additional response to this comment.</p> <p><u>Mesa</u>: This matter was raised during stakeholder meetings. This provision does not conflict with the MS4 permits. The MS4 requirement that the city have evidence that coverage is in place prior to issuing construction approvals is consistent with the MS4 rules to prohibit illicit discharges. Typically, all applicants receive authorization certificates within 7 days. The exception to this is when the NOI is incomplete or inaccurate, which may result in a delay of permit authorization. In such cases, the applicant is given an opportunity to correct the NOI and obtain coverage. If the applicant does not respond, the NOI is voided. Operators should, whenever possible, always use the Smart NOI system to obtain near instant approval. If a paper NOI is submitted, ADEQ can fax or e-mail the authorization certificate, if requested. Additionally, applicants can query the online CGP database at www.azdeq.gov/ to search for approved authorizations. After 7 days, authorization is automatic. No change to the permit is required.</p>
<p>2.3(6), Revised NOI</p>	<p><u>Chamber, HBA & LSD</u>: remove last sentence; requires new NOI if any info changes; also implies a fee. At the very most, a revised NOI should be required for changes in information on an NOI, not the submittal of a new NOI. Are additional fees required and how handled if a revised NOI is submitted via the smart NOI?</p> <p><u>Rosemont</u>: the second sentence (“... information other than personnel contact or the operator’s address changes, a new NOI shall be submitted [to ADEQ]...”) is extremely onerous given that some information required on the NOI could change frequently during construction at a large mine site, and yet may have little if any impact on discharge quality. Examples of things that could change frequently include the list of other environmental permits and their numbers, and the estimate of acreage to be disturbed (to the nearest 1/2 acre). Such changes should not require submission of a new NOI (and associated fee).</p>	<p><u>All</u>: No fee is charged for revisions to an NOI; only SWPPPs are assessed a fee if the Department requires one to be submitted. Revised NOIs cannot be submitted via the smart NOI system; they must be hand delivered or mailed to ADEQ. Part 2.3(6) is clarified to state no fee is required for NOI revisions.</p> <p>NOI revisions are limited to changes in contact information (e.g., SWPPP contact, facility contact) and no fee is required (language added to this draft). Other project updates (e.g., construction acreage, etc.) should be documented in the SWPPP and, unless requested by ADEQ, does not need to be submitted with each change. See Part 6.5 for SWPPP updates and modifications. See also response to Part 2.3(2)(d) and (m).</p>

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2.4(4), Emergency-Related Construction	<u>LSD</u> : what does “applicable requirements” mean?	When this issue was raised during stakeholder meetings, ADEQ included two “Notes” in the Fact Sheet, p. 18, to explain the “applicable requirements”. The commenter’s statement is correct that all terms [and] conditions are required to be met, regardless of whether an emergency condition exists or not, except for timeframe allowances on NOIs and SWPPPs.
2.5(1)(e)	<u>Rosemont</u> : tweak language to recognize metal/ non-metal mining sectors will transfer coverage from CGP to MSGP when construction phase ends and operational phase begins.	The MSGP is another AZPDES permit. This concern is also addressed in Part 1.5(2). The operator should note that two permits cannot be active at the same time for the same discharge. No change was made to the permit.
2.5(1)(f)	<u>MCo</u> : delete 2.5(1)(f); 1) wording could allow operator to not perform final stabilization. 2) would allow operator to submit an NOT without meeting the full requirements of an NOT; 3) Allowing an operator to not have responsibility for their site before final stabilization occurs could be devastating to a private or public operator that takes over responsibility of a storm system when the system and/or the sites that discharge to the system have not been properly stabilized.	Part 2.5(1) allows submittal of an NOT based on meeting alternative methods of stabilization listed in Part 3.1.2.3 of the permit. The first alternative method is based on A.R.S. § 49-255.01(L) and the second requires that discharges from the property be returned to the same level as existed prior to construction activity. The alternative stabilization requirements are intended to provide equivalent levels of reduction in pollutants discharged. No change was made to the permit.
2.5(1)(g) – withdrawal	<u>EPA</u> – remove Part 2.5(1)(g) that allows a permittee to terminate coverage without a mechanism to ensure that either the construction site is stabilized or the construction site continues to have permit coverage. EPA recommends the permit retain requirements for Notice of Termination as proposed in Sections 2.5(1)(a) through 2.5(1)(f), and as established in the existing AZGCP.. Part 2.5(1)(g) makes Section 3.1.2.2 and Parts 2.5(1)(b) and (e) of the permit unenforceable. <u>MCo</u> (their “general comment” refers to this): appears to be a loophole for contactors; suggest requiring an affidavit from the property owner that they know and are liable for the property should the listed operator of the property fail. <u>MCo</u> : Strike 2.5(g)(ii), replace with “Identifies the reasons for no longer meeting the definition of an operator in Part 2.1”. Current wording contradicts the intent of this line, which is to enable the operator to file an NOT.	Part 2.5(1)(g) was deleted. Part 2.6 (“Change of Operator Request (COR) due to Foreclosure or Bankruptcy”) is new language that replaces 2.5(1)(g) and addresses the concerns raised here. A new section, II.2.6, was also added to the Fact Sheet.
2.5(4)	<u>Rosemont</u> : language about date of permit termination duplicates same language in Part 2.5(1). Delete 2.5(4) language.	The language about permit termination at midnight in Part 2.5(1) was deleted, because it is a duplicate of Part 2.5(4). Part 2.5(4) was retained.

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Effluent Limitations & WQS – Part 3.0, Waiver for ongoing construction projects	<u>LSD</u> : Should this waiver require some form of notification to ADEQ (with signature/certification statement) to match the Waiver notification form using the Smart NOI system?	Projects eligible for this waiver will already have CGP coverage and the operator must document the reasons the project can not comply with additional controls in the SWPPP. However, to avoid potential confusion, ADEQ replaced “waiver” with “exception” to differentiate it from the Erosivity Waiver in Part 1.6. No additional notification for this ongoing projects exception is necessary.
[HBA cited Part 3.1.2, believed to be Part 3.1(2), General Maintenance]	<p><u>HBA</u>: [Also cited Pt. 5.1, 5.3, 6.4.7 & Fact Sheet]</p> <p>The difference between "routine maintenance" and "corrective action" is ambiguous and confusing for the field person/inspector to distinguish and document accordingly. Whether "routine maintenance" or "corrective action," the time constraints for addressing each are the same.</p> <p>The scope of the site inspection should be simplified with respect to documentation of repairs, maintenance or replacement as needed for on-site stormwater BMPs. All repairs, maintenance and/or replacement of BMPs that are found to be inefficient should be identified, addressed in a timely manner and documented in the inspection report inclusive of the date of discovery and date of correction as per Part 4.4.</p> <p>The obligation to fix certain routine maintenance issues by the next work day will be difficult to implement. Determining what is significant versus what is not is obviously a judgment call and there is the potential for compliance issues if an ADEQ inspector disagrees about the subjective call. It would be better to change all next day limits to within 7 days.</p>	<p><u>HBA</u>: Corrective action language in Part 5.1 was clarified by deleting the last half of the second sentence. This sentence now reads, “ADEQ does not consider routine maintenance or repairs as corrective actions.” ADEQ expects operators to replace ineffective controls so that they will meet the requirements of Part 3. Otherwise, this failure may become a permit violation. Also, the definition of “Corrective action” was revised, chiefly by deleting clean-up and disposal of spills, etc. and replacing with the requirement to mitigate conditions that result in an exceedance of standards in the discharge.</p> <p>Based on discussions during the stakeholder meetings, ADEQ determined that some control measure maintenance activities could be easily and quickly addressed whereas others may take more time. Where feasible, the operator should make necessary fixes to control measures by the close of the next work day. No changes were made to Part 3.1(2) of the permit regarding this matter.</p>
3.1.1	<p><u>LSD</u>: encourage the use of multiple BMPs, instead of relying on a single type of control measure, by adding language, “Design and implement <u>a combination of</u> erosion and sediment controls ...”</p> <p><u>Rosemont</u>: what does “minimize the amount of soil exposed during construction activities” mean in the context of a mine construction project? Add “To the extent practicable”.</p>	<p><u>LSD, Rosemont</u>: The introductory language in this part is verbatim of the C&D rule requirements in 40 CFR Part 450.21(a). The language does not imply operators are obliged to use a single control measure. Control measures are often more effective when used in combination rather than in isolation. Erosion controls are the primary means of mitigating stormwater pollution. Sediment controls provide a necessary second line of defense to properly designed and installed erosion controls. No change was made to the permit.</p> <p>40 CFR Part 450.21(a)(3) requires operators to minimize the amount of soil exposed during construction activity. No change was made to the permit.</p>
3.1.1(A)(2)	<p><u>LSD</u>: Change “if necessary” to “as practicable”</p> <p><u>Rosemont</u>: add mine sites to the FS as an example of infeasibility</p>	<p><u>LSD</u>: Change in language is not appropriate; if erosion is likely to occur in the discharge, then a velocity dissipation device may be</p>

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	of not directing stormwater discharges to vegetative areas or natural buffers, because of mass areas of ground disturbing activities, absence of vegetated areas, and difficulty in re-directing water across large distances with a large construction footprint.	necessary. However, the Department deleted the phrase “from stormwater controls” because vegetated areas are one form of stormwater controls. <u>Rosemont</u> : If vegetated areas are not present, then this requirement does not apply.
3.1.1(B)(1)	<u>Mesa</u> : add as last sentence to first paragraph, “ <u>If it is infeasible to meet the requirements above, SWPPP records must document why it is infeasible.</u> ” Consistent with Section 3.1(2)(b).	Based on this comment, ADEQ revised this section to say stormwater controls must be in place prior to construction activities commencing to reduce the discharge of pollutants. The requirement to document in the SWPPP was also added.
[HBA cited Part 3.1.1(2)a. and 3.1.1.1.2; believed to be 3.1.1.1(2)(a) sediment basin design & sizing	<u>HBA</u> : RE: sizing requirement for sediment basins found in previous CGPs. Additionally, the fact sheet should make clear sediment basin design and sizing are distinct from Site Stabilization Alternatives Part 3.1.2.3 where an operator may choose stabilization alternatives if the site has a basin with the calculated retention capacity for the 100 year 2-hour storm. This standard is substantially higher than normally used for sediment traps. The two should not be confused.	<u>HBA</u> : The 2008 CGP had a sizing requirement; the specific sizing requirement to the 2 year/ 24 hour storm event was removed to allow operators flexibility for design in smaller areas that could not accommodate the previous standard. This is in contrast to the sizing requirement for stabilization, which is for a 100 year/ 24 hour event. Operators now are free to design a storage capacity for their site that fits the needs of the locality (i.e., zoning or physical limitations). A short discussion about this distinction in sizing requirements was added as a Note to the Fact Sheet, p. 25.
3.1.1.1(2)(a)(iii)	<u>Rosemont</u> : (3.1.1.1(2)(a)(iii)) requires that sediment basins be situated outside of surface waters. Placement of a sediment basin within a surface water should be allowed if authorized in a Section 404 permit.	<u>Rosemont</u> : The following permit language was added: “unless approved under a CWA Section 404 permit.”
3.1.1.3, steep slopes ELG	<u>Rosemont</u> : The phrase, “minimize the amount of soil exposed and the disturbance of steep slopes” should be modified with “to the extent practicable.”	Part 3.1.1.3 states the effluent limitation guideline (ELG) as it appears in 40 CFR Part 450. “To the extent practicable” is understood. Rather than modify the ELG statement in the stem, all three sub-headings (Parts 3.1.1.3(1) through 3.1.1.3(3)) are prefaced with “Where practicable ...”. No change was made to the permit.
3.1.1.4(1) – Perimeter Control	<u>EPA</u> – language states that perimeter controls are not required when sediment basins are utilized. The language appears to imply, but does not require, that all runoff from the site must be directed to the sediment basin(s). Suggest revision to specify that a site is not required to use perimeter controls only when stormwater runoff from the site is directed to the properly designed sediment basin(s). <u>LSD</u> – perimeter controls for individual lots; change “stormwater” to “all stormwater” – Simply installing a sediment basin does not mean all stormwater drains to it. <u>Mesa</u> : insert “ ... conveyance structures, <u>exclusive of public rights-of-way</u> , to a sediment basin ... ” [This is] consistent with	<u>LSD</u> : The comment appears to apply only to stormwater from individual lots; any areas where stormwater is not directed to a sediment basin would require perimeter controls. <u>HBA</u> : The Note added to p. 25 of the Fact Sheet (discussed with Part 3.1.1.1(2)(a) comment, above) clarifies that sediment basin design and sizing are distinct from Site Stabilization Alternatives in Part 3.1.2.3. <u>All</u> : The language in the second paragraph of (1) has been replaced by language from the statute (A.R.S. § 255.01(L)(2)): “For sites where stormwater from disturbed areas, exclusive of rights-of-way, is conveyed to one or more retention basins that are designed to retain

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	<p>3.1.2.3(1)(b); will prevent discharges of pollutants to an MS4, unless it is ADEQ's intention for MS4 operators to allow pollutant discharges to their system as long as it is retained or detained in these circumstances.</p> <p><u>MCo</u>: delete 2nd paragraph (perimeter controls not required for individual lots: 1) do not exist within or internal to a construction site; paragraph is not worded accurately; 2) could allow operator to discharge w/o controls to a neighboring site that has a separate NOI; 3) "each construction site should be required to take on the responsibility of the erosion and sedimentation within their own site, and not allowed to pass that responsibility on to another ... operator ..."</p> <p><u>HBA</u>: (relates to comment on Part 3.1.1.1(2)(a)) permit references "sediment basin that will store a calculated volume of runoff." What are the design criteria for sediment basins/traps that will meet permit requirements in Part 3.1.1.1(2)(a)? Restore the sizing requirement for sediment basins found in previous EPA CGP. Additionally, the fact sheet should make clear sediment basin design and sizing are distinct from Site Stabilization Alternatives Part 3.1.2.3 where an operator may choose stabilization alternatives if the site has a basin with the calculated retention capacity for the 100 year 2-hour storm. This standard is substantially higher than normally used for sediment traps. The two should not be confused.</p>	<p>stormwater runoff from a local 100 yr/ 2 hr storm event, the operator is not required to utilize perimeter controls".</p>
<p>3.1.1.4(2)(d)</p>	<p><u>LSD</u>:</p> <ul style="list-style-type: none"> • Consider changing the term "Avoid" to stronger regulatory language such as "Do not". • Is the term "soil pile" in the title different than a soil stockpile/ soil materials; being terms defined and used throughout the Draft Permit? Please clarify or define "soil pile". 	<p><u>LSD</u>:</p> <ul style="list-style-type: none"> • No change was made to the permit. ADEQ retained "Avoid"; "do not" would require the modifier "unless infeasible". • The word "piles" was deleted from the sentence so that both sediment and soil refer to "stockpiles".
<p>3.1.1.4(3)</p>	<p><u>MCo</u>: revise language, "minimize the discharge of sediments from construction activities offsite to any water body including dry washes during dry weather"</p> <p>Regardless of the season, sediments should not be allowed to leave a construction site. The current wording allows for sediment discharges to public and private storm systems.</p> <p><u>Chamber</u>: It is unclear what is meant by the language in Part 3.1.1.4(3) that requires the implementation of effective control measures to minimize discharges of sediment during dry weather. Further, since the permit addresses stormwater discharges from</p>	<p><u>MCo</u>: The phrase "to any water body including dry washes" was deleted. The definition of a discharge means to a Water of the US, directly or by way of a conveyance, such as an MS4.</p> <p><u>Chamber</u>: The cited language was deleted. ADEQ views this language as duplicative of the stem requirement to minimize the discharge of sediment, based on 40 CFR 450.21(a)(5).</p>

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	construction sites, it appears that this language attempts to regulate activities beyond actual stormwater discharges; remove this language;	
3.1.1.4(4) and Fact Sheet, p. 28 – Inlet Protection	<p><u>LSD, EPA</u> – remove / change <u>Note</u> “Inlet protection measures can be removed ... USEPA believes this scenario is addressed by Bypass Conditions, [Appendix B(20)] and sufficient to provide an operator recourse in an emergency situation. Alternatively, revise to be more specific to disallow removal of inlet protection under normal circumstances.</p> <p><u>MCo</u>: Re-word: "If the site discharges to any storm drain inlet that carries stormwater flow directly to a surface water (and it is not first directed to a sediment basin, sediment trap, or similarly effective control and the operator <u>may obtain</u> has authority to access the storm drain inlet), then inlet protection is required.”</p> <p><u>HBA</u>: the fact sheet should note that there are inlet protection measures that are actually installed in the inlet itself.</p>	<p><u>EPA, LSD, MCo</u>: Language in the ‘<u>Note</u>’ was revised: “Inlet protection measures can be removed in the event of flood conditions <u>that may endanger the safety of the public. Such actions are allowable only under extreme conditions and shall be documented on the Inspection Report Form. The operator shall evaluate alternatives to be used in the future to prevent a recurrence of this problem.</u>” The Fact Sheet was also revised accordingly.</p> <p><u>HBA</u>: Comment noted. It is the operator’s responsibility to design, install and maintain control measures that are appropriate for the site. It should be noted that USEPA’s Fact Sheet listed some examples of inlet protection measures, which were included in this Fact Sheet. Operators may refer to numerous other guidance documents such as EPA’s “Developing Your Stormwater Pollution Plan” for further help. Typically, the purpose of the Fact Sheet is to explain the basis for permit conditions rather than provide technical advice, options or advocate for specific control measures. See also response immediately above to EPA, LSD, and MCo.</p>
3.1.1.5, natural buffers & Fact Sheet, p. 29.	<p><u>LSD</u>: Is the intent of this language for a permittee to only buffer perennial waters?</p> <p>Would lakes and ponds not require buffers; per definition, “perennial waters” flow; lakes/ ponds do not.</p> <p>Page 29 of the Fact Sheet states: “In Arizona, buffers used to achieve erosion and sediment control are most effective when applied to areas adjacent to perennial waters.” Is there research or data that supports this declaration? Page 30 of the Fact Sheet (3.a.) seemingly uses the terms “surface water” and “perennial water” interchangeably.</p> <p>Consider revising the Draft Permit and associated Fact Sheet to incorporate “Waters of the United States” as defined in Appendix A, which also cites 40 CFR §122.2.</p>	<p>Regarding lakes and ponds, the intent of the original language was to cover natural lakes and ponds, however new language was inserted: “(including lakes, unless infeasible).” Therefore, natural buffers apply to perennial waters and lakes and ponds. Restricting the use of buffers to only perennial, instead of the more broad “Waters of the US” was discussed in stakeholder meetings and ADEQ believes that, in Arizona’s arid climate, this is sufficiently protective of Arizona’s surface waters. The entire permit is intended to protect the discharge of pollutants in stormwater to Waters of the US, namely ephemeral, intermittent and perennial waters.</p> <p>The Fact Sheet was revised accordingly.</p>
3.1.2.2(1)(a) & 3.1.2.2(1)(b)	<p><u>ADOT</u>: this section relies on vegetative cover and permanent stabilization practices; however, soil stability not mentioned; some sites may have 70% of pre-project cover, but there is still pronounced erosion and sediment leaving site; stable slopes (no active erosion), specifically in arid lands, that do not have 70% cover, should be given the same consideration.</p> <p>Add rock mulch and AB as list of stabilizing materials.</p>	<p><u>All</u>: Part 3.1.2.2(1) of the draft permit gave operators a choice between: (a) uniform annual / perennial vegetative cover with a density of 70% or; (b) employ equivalent permanent stabilization measures (riprap, gabions, etc.). The higher elevations of the state have adequate rainfall to establish more vegetative cover. However, language in the permit was revised to say that a uniform native vegetative cover of 70% is required. “Annual and/ or perennial” was</p>

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	<p><u>LSD</u>: Consider removing the condition of “annual vegetation”. Annual vegetation will only provide two to three months of vegetative cover in most of the low desert areas of Arizona which makes up approximately one third of the State. The current 2008 CGP only allows for perennial vegetation. Would two to three months of annual vegetative be considered adequate to meet the final stability requirement?</p>	<p>deleted. ADEQ neither prohibits nor recommends any particular type of gradation or rock mulch as a cover provided that it does the job of stabilization.</p>
<p>3.1.2.3, 3.1.2.3(1) (Sites with additional retention capacity), 3.1.2.3(1)(b)</p>	<p><u>PHX</u>: Intent with respect to public rights-of-way is unclear. Does it mean:</p> <ul style="list-style-type: none"> • Only stormwater not falling onto a public right of way (e.g. falling on unstabilized portion of site) must be directed into such retention basins? • Stormwater from the site may not be directed into public rights of way in order to reach such retention basins? • Runoff from unstabilized portions of such sites could be directed into a public right of way and then into a retention basin? <p>If the intent is to require runoff from unstabilized portions of sites to be directed into a public right of way and then into a retention basin, this could transfer undue regulatory burden onto the MS4, both for stormwater and dust control.</p> <p>Suggest re-word: "<u>All stormwater from the site is directed to one or more retention basins, provided stormwater from unstabilized portions of the site is not directed into any public right-of-way.</u>"</p> <p><u>MCo</u>: Reword, “All stormwater from the site (<u>exclusive of public rights-of-way</u>) is directed to one or more retention basins; exclusive of public rights-of-way”. The construction site operator should remain responsible for the sediment that is generated from the construction site.</p> <p><u>MCo</u>: Revise Part 3.1.2.3(1): allow relief only from implementing temporary stabilization requirements; do not allow relief from implementing final stabilization requirements.</p> <p>Operators should not be able to file an NOT before their whole site is stabilized as was defined in the 2008 Permit; contrary to NPDES program; allows operators to continue construction without being required to implement a SWPPP and perform regular inspections; but MS4s are required to enforce the implementation of a stormwater site plan during construction. As an MS4, we are concerned that our streets within an uncompleted subdivision could receive sediment discharges under the current permit wording, were it not for current air quality rules requiring trackout</p>	<p><u>PHX</u>: The intent with respect to public rights-of-way means that only stormwater not falling onto a public right-of-way (e.g. falling on an unstabilized portion of site) must be directed into a retention basin.</p> <p><u>PHX, MCo</u>: Based on comments by both MCo and PHX, ADEQ clarified the intent of this subsection by incorporating the applicable language from ARS § 49 – 255.01(L) (i.e., “generated by disturbed areas of”). It must also be noted that local governments have the authority for enacting local stormwater ordinances or zoning restrictions.</p>

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	<p>control and other measures. Relates to <u>MCo</u> comment on Part 2.5(1)(g). <u>LSD</u>: Consider removing this alternative [3.1.2.3(1)] to site stability. SEE FULL TEXT for entire drivel.</p>	
<p>3.1.2.3(1)&(2)</p>	<p><u>LSD</u>: include language requiring an expanded category to capture other categories of certifications. <u>Chamber & Rosemont</u>: basis for the 2.5 mile requirement? Remove and change to 1/4 mile. <u>HBA</u>: The 2.5 mile threshold for qualifying for this exemption is unreasonable. For other sensitive waters, such as impaired waters or OAW, the CGP imposes stricter controls when the activity is occurring within 1/4 mile of the sensitive water. Here, the Department has included a distance limit that is ten times farther, for a pollutant that simply does not migrate the distance included in the CGP. This distance threshold should be changed to 1/4 mile.</p>	<p><u>LSD</u>: The proposed permit already included language requiring registered professionals to calculate the pre- and post-volume and pollutant load. In accordance with ARS 49-255.01(L)(2), the permit requires an Arizona licensed professional to calculate the 100 year, two hour storm event. No change to the permit is required. <u>Chamber HBA, & Rosemont</u>: The 2.5 mile distance is ADEQ's interpretation of A.R.S. § 49 – 255.01(L)(1) – sufficient distance – the extra distance was intended to be protective during high stormwater flow events. The additional (sufficient) distance is required in accordance ARS § 255.01(L)(1) that allows for reduced control measures. No change to permit language.</p>
<p>3.1.3.1(1), concrete washouts</p>	<p><u>Mesa</u>: add note to permit about need for APP.</p>	<p>The requirement to obtain an APP is not within the authority of the CGP, which was discussed in the stakeholder meetings. As a result of those discussions, the draft Fact Sheet to the proposed permit already includes language discussing the APP requirement. Concrete operators must comply with all applicable regulations. ADEQ provides guidance on what other regulations may apply in the Fact Sheet, but the Department will not duplicate other authorities in the permit. No change to permit or Fact Sheet is necessary.</p>
<p>3.1.3.1(3) & 3.1.3.1(3)(a)</p>	<p><u>ADOT</u>: exclude common components of cement after curing agents because it is covered under 3.1.3.1 Subsection 1 <u>Rosemont</u>: What makes a container or pit "leak-proof"? <u>HBA</u>: In some cases, the nature and location of a construction site does not allow for a concrete washout pit to be located 50 feet from conveyances as required by the APP criteria outlined in the Fact sheet page III.3. The Permit language allows for a washout to be located as far away as possible from stormwater conveyance or surface waters. If the fact sheet is used as an explanation for Permit, the location of the concrete washout should be at 50ft or as far as possible from a surface water or storm water conveyance structure.</p>	<p><u>ADOT</u>: Containers with curing compounds are not covered in 3.1.3.1(1). No change was made to the permit. <u>Rosemont</u>: 'Leak-proof' is not a technical term and is intended to convey to the construction operator that washwater from "stucco, paint, form release oils, curing compounds and other construction materials" (Part 1.4(2)) should not be disposed of on the ground or in unlined pits. "Leak-proof", which is used in the 2012 EPA CGP, should be interpreted in the context described above and not taken literally in any scientific context to mean, for example, a permeability of 10⁻⁶ cm/sec or less. The term "impervious" could be interpreted in the same context, as an unscientific term for general use. As for containers, if they leak, then they are not leak-proof. No change was made to the permit. <u>HBA</u>: The Fact Sheet explains (Sec. III.3.1, p. 39) that this is an APP</p>

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		requirement and if operators (as the Fact Sheet explains) can't qualify for APP coverage, they should conduct washout activities elsewhere (see also Part 3.1.3.1(1)(a) of the permit). No change was made to the permit.
3.1.3.2 Note	<u>LSD</u> : Consider including requirements of local government compliance language from Part 3.1.1.4(5)(c)	A state permit does not have authority to enforce compliance with local ordinances or zoning restrictions. That is the responsibility of the specific local government. For this reason, ADEQ removed this requirement in Part 3.1.1.4(5)(c).
3.1.3.3(2) and Fact Sheet, Sec. III.3.3, p. 43 (Part 3.1.3.3(2)(c))	<u>PHX</u> : storage requirements are slightly different for each material mentioned; section needs re-word/ clarification <u>LSD</u> : define 'secondary containment' as found in 40 CFR 112.7; also, consider the term "impervious" in the parenthesis of this section for clarity; "(e.g., <i>impervious spill berms, decks, spill containment pallets</i>)"	<u>PHX</u> : the differences reflect the various types of materials being stored; no change was made to the permit. <u>LSD</u> The requirements of 40 CFR 112.7 still prevail and are not negated by this permit. Furthermore, this permit's language is not required to conform to 40 CFR 112.7. No change was made to the permit.
3.1.3.4	<u>Rosemont</u> : <ul style="list-style-type: none"> • Are 1st & 3rd sentences redundant? • Second sentence refers to the prohibition in Part 1.4(5) (toxic substances) and this goes beyond ELG. Delete. 	The first sentence is directly from 40 CFR 450.21(d)(3); however, as noted by the commenter, it is nearly identical to the third sentence. Therefore the 1st sentence was deleted. The second sentence was left unchanged. See the response to Part 1.4 Prohibited Discharges, above.
3.1.4 – Dewatering/ control measures for allowable non-SW [Chamber cited Part 1.3(a)(a)(xiv), believed to be 1.3(2)(a)(xiv)]	<u>EPA</u> : appears to apply restrictions to all non-stormwater discharges <u>Chamber & Rosemont</u> : revise per Chamber's direction (strike all language 1.) thru 4.), including <i>Note</i>); Part 3.1.4 should simply describe the control measures appropriate for dewatering discharges consistent with 40 C.F.R. § 450.21(c). Allowable non-stormwater discharges, including dewatering discharges, are already addressed under Part 1.3(2) and that part should be the area of the proposed CGP that includes SWPPP-related requirements. Part 1.3(2)(a)(xiv) not consistent with Part 3.1.4 or 40 C.F.R. § 450.21(c). Change language to authorize the discharge of construction dewatering water " <u>if managed by an appropriate control</u> " in accordance with Part 3.1.4. If not, it violates ADEQ's statute "shall not adopt any requirement that is more stringent ... "	<u>All</u> : ADEQ harmonized permit language in Parts 1.3(2), 1.3(2)(b) and 3.1.4 with the following revisions to clarify that control measures are required for stormwater and non-stormwater discharges: <ul style="list-style-type: none"> • The stem of Part 1.3(2) clarifies that operators must have appropriate control measures in place to reduce or eliminate discharges of pollutants from allowable non-stormwater discharges to assure compliance with Part 3 of the permit; • Part 1.3(2)(a)(xiv) was modified with "provided the discharge are managed as specified in Part 3.1.4 of this permit." • Part 1.3(2)(b) was deleted, because the same requirements are essentially required by Part 6.2; • Part 3.1.4 was renamed "Controls for Allowable Non-Stormwater Discharges and Dewatering Activities". The first two bullets were deleted; the second two bullets were retained, but converted to regular text. • Also, the fourth bullet in Part 3.1, p. 13 was changed to match the revised title of Part 3.1.4.

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3.2.1	<p><u>Chamber, HBA & Rosemont</u>: CGP requires discharges not cause or contribute to an exceedance of applicable water quality standards; ... this refers to exceedances of standards in the receiving surface water, not in the discharge itself.</p> <p>Insert “<u>in the receiving water body</u>” in the four places shown in Part 3.2.1 [see Chamber’s document].</p> <p><u>Rosemont</u>: “ADEQ may impose additional water-quality based requirements on a site-specific basis.” What is the basis for ADEQ’s authority, and when and under what circumstances does ADEQ envision using it?</p>	<p>Surface water quality standards apply to receiving waters. ADEQ expects that compliance with the conditions in the permit (such as, control measures, corrective actions and inspections) will result in discharges that are controlled as necessary to not cause or contribute to an exceedance of water quality standards in the receiving water body.</p> <p><u>Rosemont</u>: For ADEQ’s authority, see 40 CFR Part 122.43 and 122.44(d)(1)(iii).</p>
3.2.2	<p><u>Rosemont</u>: change to “1/4 mile upgradient”</p>	<p>See General Comments regarding upgradient discharges for response to this comment.</p>

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<p>Inspections – Part 4.2, 4.2(1); Fact Sheet, p. 48, Appendix A-1</p>	<p><u>HBA</u>: language implies that it may not be necessary to have a rain gauge or use a weather station when will it not be necessary? In the Fact Sheet, what is point of the statement “the operator must be consistent to use the same location throughout the life of the construction project”? A rain event may extend over the weekend and/or a holiday when management is not on site to monitor the rain gauge, [so], it should also be permissible, as necessary, to use both a rain gauge and a local weather station that is representative of rainfall for the site location.</p> <p><u>HBA</u>: The permit needs to further clarify what constitutes the end of the storm event so that the operator can perform the post rain inspection within the time frame required. Rainfall can occur intermittently throughout a particular day [and] it is difficult for field personnel to know when an event has concluded. Define the end of the storm event as “<u>The event ends with the occurrence of a 48 hour or greater dry period</u>”.</p> <p><u>LSD</u>: “Reduced Inspection Schedule” should have its own heading, not a sub-heading of “Inspection Schedule”</p> <p>Part 4.2(1)(b) less stringent than Federal permit for 0.25 inch; please elaborate.</p> <p>Part 4.2(1)(c) change once per month to “once every 28 calendar days” to be consistent with calendar day criteria elsewhere in the permit and to avoid potential for an inspection occurring on the last</p>	<p><u>HBA comment about Part 4.2(1)</u>: It is not necessary to use a rain gauge when the “site will be inspected a minimum of once every 7 calendar days” (Part 4.2(1)(a)). ADEQ deleted “a.”, the reference to the 7-day inspection cycle (i.e., Part 4.2(1)(a)), in the first paragraph because this cycle occurs irrespective of rainfall quantity.</p> <p><u>HBA comment about the Fact Sheet</u>: The Fact Sheet was revised to “allow flexibility with the rain gauge location within the area of operational control for the permitted site.” The operator may use the local weather station in lieu of an on-site rain gauge.</p> <p><u>Regarding the Appendix A definition</u>: No change was made to the permit to define the end of a storm event. Instead, “of the end” was deleted in three places (Part 4.2(1), (2) & (4)(b)); doing this provides operators more flexibility to inspect when 0.25 or 0.5 inch precipitation has occurred, regardless of whether storm has ended or not. If the event has accumulated 0.25 inch or 0.5 inch, inspectors should perform an inspection, whether the rain has ceased or not. Otherwise they may miss the opportunity to observe physical characteristics (color, odor, clarity, etc.) of the discharge (see Part 4.3(11) and 4.4(5)). Such observations are a very simple and expedient way to assess whether control measures are working properly. Of course, do this only when conditions are safe for personnel to do so. No definition is necessary; no change was made to the permit.</p> <p><u>LSD</u>: “Reduced Inspection Schedule” is another type of inspection</p>

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	<p>day of one month and the first day on the next month, thus negating the intended inspection frequency and protection of Waters.</p>	<p>schedule and therefore will remain under Part 4.2 "Inspection Schedule".</p> <p>Part 4.2(1)(b): The CWA and Federal rules do not specify inspection frequencies or other related criteria for construction sites. ADEQ's permit allows for higher threshold of rainfall (0.5 inch) when the routine inspections occur more frequently, whereas the 0.25 in threshold occurs whenever inspections occur less frequently (30 days).</p> <p>Part 4.2(1)(c): Regarding change to once per month: this concern was discussed during the stakeholder meeting and "not within 14 calendar days of previous inspection" was added to prevent that possibility. No change was made to the permit.</p>
<p>4.2(3) & 4.2(4)</p>	<p><u>ADOT</u>: revise/ add: "... for those areas of the construction site that have been <u>temporarily</u> stabilized." This will assist linear projects, specifically a DOT, in reduced inspections for sites that have received significant quantities of seed, yet, drought does not support seed germination for 1 – 3 years.</p> <p>Part 4.2(4): If temporary stabilization measures have been installed at unstaffed sites within 1/4 mile of OAW or impaired water, ADEQ should allow for a similar reduced inspection frequency.</p> <p>All Section 4.2 inspection schedules should also allow for reduced frequency [for linear projects] for portions of the site that do not drain to the outstanding Arizona or impaired water. Example of a 20 mile linear project site given. Only the 1/4 mile buffer between the project and the length that is a sensitive water should be held to the 7-day inspection standard.</p> <p><u>Rosemont</u>: change to "1/4 mile upgradient"</p> <p><u>LSD</u>: This section would increase the inspection schedule for an entire project if only one portion of the project is within the 1/4 Mile proximity; problematic for linear projects; consider requiring only that portion of the site that exists within the 1/4 proximity to be subject to this schedule.</p>	<p><u>ADOT, LSD</u>: Part 4.2(3): The Department inserted "undergone temporary or final stabilization" at the end of the sentence.</p> <p>Part 4.2(4): The permit has been revised to allow for reduced inspections at inactive/unstaffed sites within 1/4 mile of an impaired water or OAW, if the site has been temporarily stabilized. Operators are encouraged to stabilize these areas as soon as possible, at which point they may reduce inspection frequencies.</p> <p><u>Rosemont</u>: See General Comments regarding upgradient discharges for response to this comment.</p>
<p>4.2(5)</p>	<p><u>HBA</u>: First, it would be helpful to define "normal working hours". Second, the following sentence should be added to the end of this section: "If rainfall events occur on the weekend or holiday, an inspection relative to that event may be conducted the following business day."</p>	<p>Although logic dictates that an operator would routinely perform an inspection on the first workday following a rain event that occurred over the weekend or holiday, permit language was added to clarify this in Part 4.2(5).</p> <p>For the purposes of this permit, normal working hours are considered to be the hours during which the site is staffed. This situation will be site-specific; i.e., a linear project may operate 24 hours a day, or just at night, others may operate from 5:30 a.m. am to 2:00 p.m. during the</p>

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		summer heat in Phoenix.
4.2(6)	<u>LSD</u> : add a citation to adverse conditions (either Part 4.4(12) or 7.3.2). Define “high winds” or delete term.	Operators should exercise their own judgment when determining unsafe conditions under high winds. No change was made to the permit.
4.3(3)	<u>Rosemont</u> : change 2013 CGP requirement for periodic routine inspection to cover "all areas of the site disturbed by construction activity." At a mine construction site, very large areas may be disturbed at any given time. Trying to visually view every square foot of disturbed ground would be problematic. Moreover, why is it necessary to inspect all disturbed ground? Inspection of the control measures and discharge points, and the other items listed in Part 4.3, is logical, but it is unclear why all disturbed ground must be viewed on a routine basis (no less frequently than monthly, and perhaps as often as weekly, depending on the frequency chosen by the operator). This language (the first clause of Part 4.3(3)) should therefore be deleted. In the alternative, the requirement should only be to inspect areas disturbed since the last inspection, or to inspect disturbed areas to the extent necessary to assess whether any planned erosion controls are being implemented.	<p>“All areas of the site” means inspecting: control measures placed around the areas of construction activity; equipment for major leaks (e.g. of fuel) that may have potential to discharge; concrete washout, etc. “disturbed by construction activity and areas” was deleted from Part 4.4(3). As Rosemont points out, mine sites are fairly unique operations inasmuch as they are under a continual state of ground disturbance with very large expanses of land affected at one time. Primarily for this reason, ADEQ created a separate MSGP for the mineral industry sector, adopting construction requirements adapted to mining conditions. Sampling, monitoring and inspection requirements in the MSGP are all adapted to the unusual operating conditions mines face.</p> <p>The language “disturbed by construction activity and areas” in Part 4.3(3) was deleted, because it has essentially the same intent with Part 4.3(1).</p> <p>It should be noted that mines were once required to get coverage first under the CGP, and then acquire coverage under the MSGP when construction ended and actual mining began. Under this former scenario, mines were able to comply with the CGP without the problems cited by Rosemont.</p>
4.4	<p><u>HBA</u>, <u>LSD</u> and <u>PHX</u>: object to mandatory use of an ADEQ inspection form. EPA’s inspection form is not mandatory for their permit.</p> <p>If the Department's inspection form is used as a model form, Section III of the inspection form is problematic; [the form] requires identifying the location of each BMP implemented on site. This will be cumbersome, laborious and time intensive for the field inspector which would add significant cost for the operator.</p>	<p>The permit was revised to state that the Inspection Report Form, or an alternative form that documents all the information required by ADEQ’s form, is mandatory to ensure consistency of content and permit compliance. Likewise, Fact Sheet sections IV.4 and X.3 were revised to explain that operators must use either a form provided by ADEQ or develop an alternate form that that incorporates all the inspection-related requirements of the 2013 CGP. Electronic formats are also acceptable.</p> <p>However, the Fact Sheet explains that ADEQ decided to mandate the use of the form, or its equivalent, because ADEQ’s experience has shown that incomplete inspection reports often resulted when the sample form provided in the 2008 CGP was not used. Use of the 2013 CGP Inspection Form, or an alternative form developed by the operator that documents all of the information required by this permit, should provide better organization of the inspection report, consistency of content and make ADEQ’s review more efficient. Operators should</p>

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		<p>also find it easier to track their findings from inspection to inspection. The requirement to track/ identify the location of each control measure on the Inspection Form was deleted. The permit requires it for the site map, where it is the most useful. Also in response to these comments, ADEQ revised language in Part 4.4(4), (6) and (7). Instead of requiring the <u>location</u> of these items on the report form ((discharge locations and control measures), the permit requires only that these be <u>identified</u> (e.g., named, described) on the report form and their locations be placed on the SWPPP site map in accordance with Part 6.3(6).</p> <p>The reference to Part 5.2 in Part 4.4(10) is erroneous and was changed to Part 5.3.</p>
4.4(11)	<p><u>PHX</u>: Any instances of non-compliance would already be noted in Sections 4.4(10) above, so it seems unnecessary to restate this in #11. The required ADEQ draft inspection form does not contain a place to record any other instances of non-compliance not addressed in 4.4(10). Suggest deleting language [from Pt. 4.4(11)] to identify any "non-compliance with conditions of this permit", or specify that these are "other instances of non compliance not noted above in 4.4(10)".</p> <p><u>PHX</u>: 4.4(11) refers to a certification statement that the project or site is being operated in compliance with the SWPPP and permit if the inspector did not note any deficiencies. Suggest adding a check-box to the draft inspection form that conveys "there were no findings and the project was in full compliance with the SWPPP and permit", so that the certification statement will be consistent with the requirements of this section.</p>	<p><u>PHX</u>: Permit language in the first line of Part 4.4(11) was revised to read "Identification of any <u>other instances of non-compliance</u> with the conditions of this permit <u>that are not associated with Part 4.4(10), ...</u> " Other instances of non-compliance can be captured in Sections III or V of the Inspection Report Form.</p> <p><u>PHX</u>: Inspection Form – ADEQ added two check boxes: one for inspections that find no deficiencies; the other acknowledging that there are deficiencies that require follow-up actions for the site to comply with Part 3 of the permit and/ or the SWPPP.</p>
4.5(1)	<p><u>Chamber, LSD</u>: Although the scope of the inspection requires the inspector to visually observe stormwater discharges if present during the inspection (see Part 4.3(11)), there is no visual assessment requirement and this reference should be removed from Part 4.5(1).</p>	<p>The "including the visual assessment" language was deleted. In addition, Parts 4.3(11) and 4.4(5)(a) were re-written to replace the term "visual" with "physical" characteristics.</p>

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Part 5, Corrective Actions	<p><u>HBA, Chamber & Rosemont</u>: Corrective Action is a new EPA concept; the term is not used in federal or state regulations in a stormwater context. The basic problem is distinguishing between corrective actions and maintenance. Simply put, it creates</p>	<p><u>All</u>: Corrective actions are a higher level of response required by the permit to address discharges that can cause or contribute to SWQS exceedance(s). The concept of corrective action is not new to the stormwater program, which is discussed in the Fact Sheet, section</p>

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	<p>significant confusion in establishing permit requirements and enforcing the permit.</p> <p>The Fact Sheet cites the example of a silt fence that has fallen down or is in need of removal and replacement is considered a routine maintenance item. However, per Part 5.1 in this example, a silt fence that was not installed correctly and needs to be replaced or re-installed is a corrective action. The time constraints for addressing each are the same. We do not see the environmental benefit of categorizing the silt fence replacement as corrective action rather than maintenance. The Department is imposing requirements above industry standards. The scope of the site inspection should be simplified with respect to documentation of repairs, maintenance or replacement as needed for on-site stormwater BMPs.</p> <p>Commenters gave specific citations & discussed Parts 3.1(2), 5.1, 5.3, 6.4.7, and corresponding Fact Sheet discussions.</p> <p>Fixing certain routine maintenance issues by the next work day will be difficult to implement. Determining what is significant versus what is not is obviously a judgment call and there is the potential for compliance issues if an ADEQ inspector disagrees about the subjective call.</p> <p>Eight reasons were given for deleting Part 5 entirely or significantly revising the concept of corrective actions, which include the confusion between corrective action and maintenance, the definition of corrective action in Appendix A and ADEQ's authority for including corrective action in the permit.</p> <p><u>HBA</u> recommends flatten all time lines to 7 days for repair, maintenance, replacement of control measures & corrective action and documented in the inspection report; in accordance with Part 4.4.</p>	<p>V.1, p. 52 – 53. The EPA 2012 CGP also contains a Part 5 entitled Corrective Actions, from which ADEQ's current 2013 CGP is adapted. Extensive discussions with stakeholders resulted in modifying and abridging the concept of corrective actions in ADEQ's 2013 CGP. Based on additional comments received during Public Comment, ADEQ revised the "corrective action" definition (Appendix A) by clarifying that a corrective action is any action taken to:</p> <ol style="list-style-type: none"> 1. Modify, or replace any ineffective stormwater control used at the site (Part 3.1.1 requires operators to design, install and maintain effective erosion and sediment controls to minimize the discharge of pollutants); 2. Mitigate any conditions that resulted in a discharge of pollutants above surface water quality standards; 3. Remedy a permit violation. <p>ADEQ further revised the language in Part 5.1 by shortening the second sentence to say, "ADEQ does not consider routine maintenance or repairs as corrective actions", thus eliminating any possible confusion about a failure to replace, repair or maintain a control measure. Corresponding language in the Fact Sheet in Section V.1 was also removed.</p> <p>The current language in Part 3.1(2)(b) allows operators enough flexibility to have up to 7 days, or more, if justified: "If it is infeasible ..., SWPPP records must document why it is infeasible."</p>
5.3(1)	<p><u>Chamber</u>: The additional reporting requirements related to sites that discharge to impaired waters or outstanding Arizona waters are entirely inappropriate and burdensome.</p> <p><u>PHX</u>: This section does not specifically mention 1/4 mile exclusion</p> <p><u>LSD</u>: Does ADEQ intend to provide a formal Corrective Action Report Form online?</p>	<p><u>Chamber</u>: ADEQ revised Part 8.2(2) to limit the requirement to submit DMRs only to sites that are required to monitor, per Part 7. Hence, operators which are able to make the demonstrations in Part 7 to eliminate monitoring from their site are not required to submit corrective actions reports. However, as with all sites, operators are still required to document in the SWPPP the corrective actions taken. See also General Comments regarding upgradient discharges for additional response to this comment.</p> <p><u>PHX</u>: Language "(in accordance with Parts 1.5(3) or (4))" was added to Part 5.3(1) to include the 1/4 mile provision.</p>

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		<p><u>LSD</u>: The Inspection Report and the Corrective Action Report are combined into the Inspection & Corrective Action Report Form, which is available online at http://www.azdeq.gov/environ/water/permits/cgp.html</p>

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<p>SWPPPs, 6.1, Fact Sheet p. 55-56</p>	<p><u>HBA</u>: The Fact Sheet appears to place some obligation on operators to ensure that controls are “consistent”. Controls need to comply with the permit and it is irrelevant whether two operators are using controls that are “consistent.” The general obligation not to interfere with other operators controls is sufficient.</p> <p><u>LSD</u>: Revise Part 6.1(4):</p> <ul style="list-style-type: none"> • “from the initial commencement of construction activity receiving approval of permit coverage” – a permittee might not commence construction activity immediately after the NOI is accepted; ... all conditions of the CGP are effective once a NOI is approved by ADEQ for that permittee including inspections, monitoring, housekeeping, etc. • “NOT is filed <u>approved</u>”; 	<p><u>HBA</u>: The permit does not obligate multiple operators to work together at a construction site, however, ADEQ would encourage it in order to coordinate control measure design, installation and implementation, which can increase effectiveness and potentially reduce overall costs. Language in Section VI.1 of the Fact Sheet was revised to clarify this point, but no change was made to the permit.</p> <p><u>LSD</u>: Some operators may obtain permit coverage far in advance of commencing actual construction activity for any number of reasons, such as contractual obligations, weather, etc. Nevertheless, even under these circumstances, a SWPPP must be developed prior to submittal of an NOI, with the expectation that it will be implemented whenever construction begins. Other permit conditions, such as inspections and monitoring would be phased in after construction activity commences.</p> <p>The operator is responsible for meeting the terms and conditions of this permit until the construction site’s authorization is terminated under one of the “reasons for termination” listed in Section III of the NOT. ADEQ does not approve NOTs; the operator certifies with a signature that the information is true, accurate and complete. No change was made to the permit.</p>
<p>6.1(4)</p>	<p><u>Rosemont</u>: require the CGP SWPPP be maintained “until a NOT is filed pursuant to Part 2.5(1).</p>	<p>Language in Part 6.1(4) was revised to cross-reference with Parts 2.5(1) and 2.6 and to remove the requirement for final stabilization, because there are actually multiple reasons to file an NOT.</p>
<p>6.1(5)</p>	<p><u>Rosemont</u>: This section states that operating under an incomplete or inadequate SWPPP is considered a permit violation. Very few operators will be required to submit their SWPPP to ADEQ for review with the NOI. Thus, it is likely most operators will have no reason to know that ADEQ might consider their SWPPP to be inadequate until an inspection occurs. At that point, the language in the proposed CGP suggests that the permittee has been out of compliance since the day they secured permit coverage, based on ADEQ’s potentially subjective conclusion that a SWPPP is</p>	<p>ADEQ has developed a 2013 CGP SWPPP checklist (http://www.azdeq.gov/environ/water/permits/cgp.html) and encourages all operators to use it, in conjunction with the permit, when preparing their SWPPPs.</p> <p>Failure to prepare and maintain a SWPPP that meets permit conditions constitutes a permit violation as specified in Appendix B.1, Duty to Comply. The operator must certify the SWPPP and any associated amendments and records in accordance with Appendix B.9, Signatory Requirements.</p>

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	<p>inadequate. This is problematic.</p> <p>This section instead should provide that if ADEQ notifies an operator of SWPPP deficiencies, and the operator does not address the deficiencies, the operator is in violation at that time.</p>	<p>All operators should note that unless specifically required by the Department, only those with construction sites that are located within 1/4 mile of an impaired water or outstanding Arizona water are required to submit their SWPPP to ADEQ for review. An operator always has the option to request a review of their entire SWPPP by ADEQ. The applicable review fee would apply, however. Finally, operators are encouraged to contact ADEQ at anytime with specific questions regarding their SWPPP.</p> <p>No change was made to the permit.</p>
<p>6.1(6) – emergency related projects</p>	<p><u>LSD</u>: Consider adding language citing Section 2.4.2 on page 10 of this Draft Permit language requiring the submittal of an NOI and SWPPP creation</p>	<p>The reference to Part 2.4 was added to Part 6.1(6).</p>
<p>6.3(1); and Fact Sheet, p. 58</p>	<p><u>HBA</u>: This language is going to create confusion among smaller operators who may have only one person managing stormwater responsibilities. The fact sheet should make clear that in some instances, the "team" may consist of only one person.</p>	<p>This concern was raised during stakeholder meetings and the Department agreed that a stormwater team may consist of one person or more who are responsible for SWPPP development, implementation, inspections, permit compliance, etc. The first sentence in Part IV.3.1 of the Fact Sheet, p. 58, already acknowledges this: "Developing a SWPPP requires that <u>a qualified individual or team of individuals</u> be identified as responsible for developing and revising the facility's SWPPP." No change was made to the permit or Fact Sheet.</p>
<p>6.3(6)</p>	<p><u>Rosemont</u>: delete reference to trees (6.3(6)(m)); Delete duplicate reference to non-stormwater discharge locations [(6.3(6)(n) is a duplicate of 6.3(6)(j)(i)].</p>	<p>Removed "trees and" from this Part. Trees are usually in environmentally sensitive areas and would implicitly be part of Part 6.3(6)(m).</p> <p>Regarding the duplicate reference, Part 6.3(6)(n) was deleted. All operators should note that only allowable non-stormwater discharges are covered by the 2013 CGP; any other non-stormwater discharges would be considered violations of the permit.</p>
<p>6.3(7)</p>	<p><u>Rosemont</u>: not every dry wash is jurisdictional (permit lists "receiving waters, including ephemeral and intermittent streams, dry washes and arroyos").</p>	<p>Arizona's ephemeral streams have been considered jurisdictional waters at least since the first days of the 1972 Federal Water Pollution Control Act amendments. The presumption is that dry washes and intermittent streams are waters of the US unless a jurisdictional determination conducted by the US Army Corps of Engineers concludes it is not a water of the US. A number of ephemerals are included in the standards and tributary rule (see A.A.C. R18-11-105) – specifies the designated use for non-listed waters in Arizona. No change was made to the permit.</p>
<p>6.3(9)</p>	<p><u>PHX</u>: For sites within 1/4 mile of an impaired water that is impaired due to historic use of pesticides, can the operator use</p>	<p><u>PHX</u>: Yes, Phase I EA data may be used to demonstrate historic use and therefore, yes, enhanced controls can be omitted. The basis for</p>

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	<p>information gathered from the Phase I Environmental Site Assessment or sampling results to demonstrate that the site is not a potential source of historic pesticides? And if so, can enhanced controls be omitted? <u>Rosemont</u>: change to “1/4 mile upgradient”</p>	<p>this response is that the permit allows operators flexibility to use all available information to demonstrate that a site will not be an additional source of a pollutant for which the water is impaired. Operators must include their demonstration in the SWPPP that is submitted to the Department for evaluation. <u>Rosemont</u>: Part 6.3(9) was revised to say “construction sites”, instead of the discharge point, located within 1/4 mile of an impaired water or OAW. Also, see General Comments regarding upgradient discharges for additional response to this comment.</p>
6.3(11)(a)	<p><u>Rosemont</u>: It seems unnecessary to repeat verbatim in subparagraphs (i) through (iv) language from Part 3.1.3.4. A simple cross-reference would seem sufficient.</p>	<p>The pollution prevention information provided in Parts 3.1.3.4 and 6.3(11)(a), while similar, cover discrete permit requirements. Part 3.1.3.4 is part of the effluent limitations operators must meet to minimize the discharge of pollutants in stormwater and protect water quality. Part 6.3(11)(a) addresses pollution prevention procedures that operators must document in their SWPPPs, in part, to help ensure that compliance with the effluent limitations of Part 3 are met. Furthermore, spill prevention and response procedures (Part 6.3(11)(a)(i) through (iv)) are the control measures operators must use to meet the effluent limitations of Part 3 of this permit. Providing pollution prevention requirements in Parts 3.1.3.4 and 6.3(11) helps provide the operator with information necessary to ensure compliance with permit conditions. No change was made to the permit.</p>
6.4	<p><u>ADOT</u>: please require that the contractor submit to project owner all complaints, notices of violation, and similar, and to ADEQ. <u>Rosemont</u>: This section requires the maintenance of extensive documentation “in the SWPPP.” Instead, the requirements should be “with the SWPPP;” This would be consistent with the language in Part 5.4 of the Mining and Non-Mining MSGPs.</p>	<p><u>ADOT</u>: All operators should stipulate any conditions in their own contracts, if the “project owner” hires contractors to perform the work. Such contractual requirements are unenforceable and beyond the scope of an AZPDES / CWA permit. No change was made to the permit. <u>Rosemont</u>: The Department interprets “with the SWPPP” and “in the SWPPP” as synonymous and no change is necessary to the permit. However, ADEQ deleted language in Part 6.4(7) referring to the retention of records and modified the stem to indicate that records must be maintained complete and up-to-date and retained with the SWPPP.</p>
6.4(12)	<p><u>Rosemont</u>: clarify (either in permit or Fact Sheet) that the prohibition on permanent stormwater outfalls “to” an OAW refers only to outfalls directly to the OAW, as opposed to those merely located in the same watershed as an OAW (but some distance</p>	<p><u>Rosemont</u>: A.A.C. R18-11-107.01(C) is a prohibition for discharges directly to an OAW, therefore “directly” was inserted before “to OAWs” in Part 6.4(12)(c) of the permit. <u>LSD</u>: The Department does not “approve” NOTs. The commenter is</p>

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	away). <u>LSD</u> : revise "... and an NOT has been filed <u>approved by ADEQ</u> "	referred to Part 2.5(4) of the permit and response to comment for Part 6.1, above. ADEQ replaced "filed" with "submitted to ADEQ" in Part 6.1(4) and the second Note of Part 6.4(12).
6.5.2(4)	<u>Rosemont</u> : The phrase "pursuant to Part 6.5.1" should be added after "impose additional requirements on your discharge." This makes the requirement less open-ended and explains why ADEQ may impose such additional requirements.	ADEQ made the requested revision to Part 6.5.2(4).
6.6 and Fact Sheet, Sec. VI, p. 55	<u>Rosemont</u> : Rosemont believes that the second paragraph of this section should be deleted (RE: Part 6.1(5) comment). Enforcement against an operator operating in good faith under a SWPPP that ADEQ later finds deficient is not appropriate. <u>LSD</u> : add language "The approved SWPPP and all contents become an enforceable part of this permit for the permittee's activities". <u>LSD</u> : For clarification, add to Fact Sheet, "The plan, once signed, <u>becomes a part of the regulated permit</u> and must be adhered to throughout the entire duration of the construction activity, up to and including <u>ADEQ receiving the NOT</u> ."	<u>Rosemont</u> : The second paragraph is merely a reminder to operators of the Department's authorities, as described in Appendix B.1, Duty to Comply. Accordingly, ADEQ added a cross-reference to Appendix B.1 in the second paragraph. <u>LSD</u> : This language addition for the permit and Fact Sheet is unnecessary because it is covered by the general conditions in Appendix B. All permit requirements are enforceable. See Appendix B.1(a). No change was made to the permit or Fact Sheet.
6.7(5)	<u>LSD</u> : Consider defining [Inactive and Unstaffed Sites] in the Fact Sheet and/or Appendix A. Is Section 4.2(4) the intended definition?	As described in Part 4.2(4) "inactive and unstaffed sites" have an anticipated period of no construction activity for at least six consecutive months; see also the additional discussion in the Fact Sheet, Section IV.2, p. 49. No change was made to the permit
6.8	<u>PHX</u> : suggests making the Inspection Report Form mandatory here.	The permit language in the stem of Part 4.4 was amended to say "or an alternative form developed by the operator that documents all of the information required by this permit ". See response to comments on Part 4.4 above. No change was made to Part 6.8 of the permit.

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Monitoring, 7.0, 7.1	<u>HBA</u> : preparing a SAP is very problematic and should be removed. Stormwater sampling is inherently difficult. <u>Chamber, LSD</u> : Part 7.0 and other related provisions in the proposed CGP should be deleted from the final version of the permit, because the technical and legal appropriateness of requiring monitoring is questionable given the burden and the limited usefulness of such information ... The focus of the permit should be on the selection and implementation of appropriate	<u>Chamber, HBA, LSD</u> : If sampling is to be done correctly, a sampling and analysis plan (SAP) is necessary, otherwise the sampling may be done incorrectly, the results may be meaningless and the operator may fail to meet permit requirements, including Appendix B.11. A SAP provides a consistent approach to sampling in order to provide representative accurate and defensible results. However, in response to extensive stakeholder input, both during the stakeholder meetings and during the Public Comment period, the

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	<p>control measures associated with discharges to impaired waters or outstanding Arizona waters in light of the specific construction project rather than conducting analytical monitoring, which imposes substantial costs and other burdens without a clearly identified benefit or purpose.</p> <p>Further, the proposed CGP already contains additional requirements that would apply to potential discharges to impaired waters or outstanding Arizona waters. ADEQ also has the ability to impose additional limits or controls on proposed discharges to impaired waters (see of the proposed CGP). The Chamber believes that the additional burdens or requirements already imposed (submittal of SWPPPs, implementation of additional control measures related to TMDL requirements, increased inspections and ADEQ's authority under Part 3.2.2) are sufficient to ensure that discharges from construction sites to impaired waters or outstanding Arizona waters will not adversely impact the quality of such waters.</p>	<p>Department significantly reduced the scope of monitoring compared to the 2008 CGP. The 2013 CGP now only requires monitoring for sites that discharge to impaired waters or OAWs. Furthermore, operators that have 20 more discharge points are only required to sample 10% of them (see Table 7-1 of Part 7.3(3)). This change was done in recognition of projects that need coverage over a very large area with multiple discharges. Finally, like the 2008 CGP, the new permit provides operators who may be subject to monitoring a means to demonstrate that it is not necessary. When conditions at the site are such that operators are unable to make the demonstrations to eliminate monitoring as required by Part 7, monitoring becomes necessary to assure that control measures are adequate to protect these waters. No change was made to the permit in response to these specific comments.</p> <p>See also General Comments regarding upgradient discharges for more information in response to this comment. Regarding technical/legal appropriateness: ADEQ has authority to require monitoring in this general permit; see 40 CFR Part 122.48 and Part 3.2.1 of the 2013 CGP. Based on stakeholder input, the current monitoring scheme was reduced from 2008 CGP, which significantly reduces any financial burden. This change also reduces the population of potential sites to a very small number; furthermore, operators have the opportunity to demonstrate they do not discharge the pollutant of concern; see Part 7.1.</p>
7.1	<p><u>HBA</u>: This language is unclear about what is required in terms of monitoring for pollutants. If a sampling program is required (see comment above), the operator should be able to be exempt if it can show that its discharges either do not contain the pollutant for which the water body is listed as impaired or that those pollutants are present in such small amounts that they cannot be reasonably expected to contribute to the impairment.</p> <p><u>Rosemont</u>: Consistent with its earlier comments, Rosemont believes that these requirements for monitoring of discharges near OAWs and impaired waters should only apply if there is a discharge point (not just a portion of the site) within 1/4 mile of an impaired water, and only if the point is upgradient of the OAW or impaired water.</p> <p>a) The exemption process in Part 7.1 may be sufficient to address these concerns, but it is not clear how it will be implemented.</p> <p>b) Does "specific pollutant" mean the pollutant for which the water</p>	<p><u>HBA</u>: See responses to Rosemont's b) and c), below.</p> <p><u>Rosemont</u>: a) Operators can make a demonstration in the SWPPP that monitoring may not be necessary under certain conditions when the construction site is within 1/4 mile of an impaired water or OAW. This is consistent with the 2003 and 2008 CGPs in scope and implementation. Like those permits, the 2013 CGP allows flexibility owing to the variation from site to site. No change was made to the permit.</p> <p>b) The language in the second paragraph of Part 7.1 was revised to indicate that operators may make a demonstration that their activities will not be an additional source of the specific pollutant for which it is impaired.</p> <p>c) The last sentence of the paragraph referring to "other pollutants" was deleted. However, Part 7.0 was revised to state, "or as otherwise specified by ADEQ".</p> <p>See General Comments regarding upgradient discharges for</p>

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	<p>is listed as impaired? If so, please clarify.</p> <p>c) Explain the monitoring requirement for “other pollutants”. Is this limited to cases where the other pollutant is one for which the water is listed as impaired?</p> <p><u>LSD #1</u>: revise, “Sites can be exempted from monitoring if the operator provides a demonstration acceptable to ADEQ that there is no potential for discharge to reach the OAW or impaired receiving water” to include a demonstration of no connectivity (e.g. blocked by freeway, sound wall, or manmade irrigation canal). [commenter did not correctly quote permit language in orig. letter]</p> <p><u>LSD #2</u>: Second sentence of second paragraph only addresses soil-disturbing pollutants. Consider adding language similar to “... the operator must consider all on-site activities, construction material, or products such as stored chemicals, as well as the potential...”</p>	<p>additional response to this comment.</p> <p><u>LSD #1</u>: Part 7.1 allows operators flexibility to use whatever site specific information might be available to demonstrate that the discharge does not have the potential to reach an impaired water or OAW. No change was made to the permit.</p> <p><u>LSD #2</u>: When monitoring is required, it will not be limited to the soil-disturbing pollutants, but will also include any other on-site activities that could be a source of pollutants in stormwater (“consider all onsite activities”), such as the storage of construction materials or chemicals. Based on this comment, ADEQ made the following revisions to Part 7.1, second paragraph: 1) replace “reasonable expectation” with “reasonable potential” in the first sentence to be consistent with the Federal rule and usage of the term elsewhere in the permit; 2) the first sentence was further revised by replacing “construction” with “on-site”; and 3) revise the second sentence: “the operator must consider all on-site activities <u>and sources</u>, as well as the potential ...”.</p>
<p>7.3; 7.3(3) and 7.3(4)(a).</p>	<p><u>ADOT</u>: please consider adopting June 15 as the beginning of the summer wet season as recognized statewide.</p>	<p>The existing language regarding the winter/ summer wet season dates is consistent with that found in other ADEQ stormwater permits. Winter/ summer wet season dates have been established for several years (beginning with large MS4 stakeholder meetings in 2006) by stakeholder consensus. Keeping this language intact provides consistency for the Department and affected permittees. No change was made to the permit.</p>
<p>7.3(3), Table 7-1</p>	<p><u>ADOT</u>: revise “Number of Outfalls and Discharge Points” unless a definition for “outfall” is added to Appendix A. No definition for “outfall”.</p>	<p>The requested revision was accepted.</p>
<p>7.3(3)(a)</p>	<p><u>ADOT</u>: sampling for turbidity should only be required if the water is impaired for turbidity,</p>	<p>Sediment is the most common pollutant discharged from all construction sites. Increased sediment in the discharge results in increased turbidity, which can affect the physical, chemical and biological characteristics of any receiving water. Monitoring for turbidity is an effective way to assess the site’s control measures so as to ensure that the discharge of sediment and other potential pollutants are being reduced. ADEQ deleted the two references to “impaired stream” because monitoring for turbidity as an indicator parameter would be intended for OAWs, since there are no pollutant(s) causing an impairment. To this end, ADEQ also added new language (Part 7.3(4)(c)) for sites that discharge to impaired waters. Section VII.3, p. 69 of the Fact Sheet was revised to clarify this.</p>
<p>7.3(3)(b)</p>	<p><u>ADOT</u>: The sampling plan [should] be included as part of the</p>	<p>Part 7.3(5) was modified to clarify that the approved sampling and</p>

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	SWPPP to ensure that the current document is followed. Otherwise, it may be indeterminate which sampling plan was submitted for approval.	analysis plan should be included in the SWPPP. A clarification was also added to the Fact Sheet, section VII.3, p. 70.
7.3(4)(a) 7.3(4)(b)	<p><u>LSD</u>: Regarding turbidity values in this subsection, for an impaired lake or pond, provide guidance as to where ADEQ envisions upstream and downstream locations for analytical monitoring of turbidity should be located.</p> <p><u>Rosemont</u>: What is meant by the requirement for the operator with discharges to an OA W to sample for pollutants that “should be known to be present at the site”? Who determines what “should” be known to be present? Delete “or which should be known”.</p> <p>Even the language “shall also sample for any pollutants known” is open-ended and confusing. The requirement should be limited to pollutants likely to be present in the discharge from the site.</p> <p><u>PHX</u>: The reference to 7.4(3)(a) does not exist. Should this be 7.3(3)(a)?</p>	<p><u>LSD</u>: Part 7.3(4)(a) was modified to include lakes, which is consistent with how lakes are handled in Part 7.3(3)(b).</p> <p><u>Rosemont</u>: ADEQ modified Part 7.3(4)(b) by deleting “or which should be known” and adding “or have the potential to be discharged from the site” to the end of the sentence.</p> <p><u>PHX</u>: The correct citation is Part 7.3(3)(a).</p>
Appendix A –	<p><u>PHX</u>: The definition of “Construction Activity” should include ‘earth disturbing activities, such as’ to be consistent with the EPA definition.</p> <p><u>Chamber, HBA, Rosemont</u>: delete terms not used in permit: ‘antidegradation requirements;’ ‘anticipated rain event;’ ‘approved TMDLs;’ ‘best management practices;’ ‘business day;’ ‘exit points;’ ‘upland.’</p> <p><u>Chamber</u>: Further, the definition of “prohibited materials” should be removed from Appendix A because it is not consistent with the list of prohibited materials provided in Part 1.4 of the permit and which was discussed during the stakeholder meetings. The definition of “prohibited materials” in Appendix A attempts to add another category of prohibited materials that broadly includes waste, garbage, flowing debris, construction debris, etc. The definition should be removed or, at the very least, the additional category of prohibited materials inconsistent with stakeholder discussion on the proposed CGP should be removed from the proposed definition of “prohibited materials.”</p>	<p><u>PHX</u>: The definition of “Construction activity” in Appendix A was revised as follows: “Construction activity – includes earth-disturbing activities such as, clearing,” etc.</p> <p><u>Chamber, HBA, Rosemont</u>: “Antidegradation” was deleted from Appendix A because it is discussed in the Fact Sheet and is referenced there in its entirety. “Anticipated rain event” was revised to “anticipated storm event” (the actual term used in the permit) and the definition was left unchanged. “Approved” was added to “TMDL” in Part 1.5(3)(b) and the definition was left unchanged. “Control Measure” uses “best management practices” in its definition and helps tie the concepts together. “Business day” and “exit points” were removed from Appendix A.</p> <p><u>Chamber</u>: “Prohibited materials” is not a term that is used or defined in the 2013 CGP, but the commenter may be referring to ‘prohibited discharges’. The definition of prohibited discharges is driven by the new ELG narrative standard (40 CFR Part 450.21(e)). The definition of prohibited discharges was modified by deleting bullet #6, “waste, garbage, floatable debris”, etc. See also response to Part 1.4, Prohibited Discharges.</p>
Appendix B.17(a) –	<u>Rosemont</u> : delete second sentence, which provides that any interested person may petition ADEQ to take action; sentence not found in the governing regulations.	A.A.C. R18-9-A909, which is the source of the “interested person” language in Appendix B.17(a), was added as an additional citation to the stem of Appendix B.17.

GENERAL COMMENTS AND RESPONSES ON PROPOSED CGP FACT SHEET

Fact Sheet/ Part/ subject	Comment	ADEQ response
Sec. II.1.2 (p. 7)	LSD: add: “(excluding tribal lands)”	A statement was added to the Fact Sheet explaining that permit coverage is not available for construction activities on Indian Country lands in Arizona. The fifth bullet also includes a statement relative to construction activity on federal lands and federal projects.
Part II.2.3 (p. 15)	PHX: 1st sentence could be interpreted that there are multiple types or classifications of parties required to file NOI. Clarify that only “operators” are required to file.	<p>As with the 2003 and 2008 CGPs, 2013 CGP (Part 2.1) specifies that: “All operators are required to obtain coverage for stormwater discharges associated with construction activity...an “operator” is any person associated with a construction project that meets either of the following two criteria:</p> <ol style="list-style-type: none"> 1. The person has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or 2. The person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit). “ <p>Many construction projects have more than one person who meets one or both of these criteria, which means each person is required to submit their own NOI and obtain permit coverage. This requirement is consistent with USEPA’s permit and the program implementation specified in the Federal Register (September 9, 1992, Vol. 57, No. 175, p. 41190), which specifies:</p> <p>“... [T]he operator of a construction site [must] submit the NOI for coverage under a permit. For the purposes of submitting NOIs under...general permits, the Agency wants to clarify that the “operator” is the party or parties that either individually or taken together, meet the following tow criteria: (1) They have operational control over the site specifications (including the ability to make modification in specifications); and (2) they have the day-to-day operational control of those activities at the site necessary to ensure compliance with plan requirements and permit conditions”</p> <p>USEPA further clarifies in the Federal Register that “... [T]he Agency anticipates that in many instances, more than one party will have to submit and NOI for the same project in order to satisfy both criteria. For example, at a given site, the property owner may have operational control over site specifications, while a general contractor may have</p>

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		<p>day-to-day control over activities at the site. In this situation, both the property owner and the general contractor must submit an NOI.”</p> <p>Part II.2.3 of the Fact Sheet was revised, however, to specify only those operators at a construction site that meet one or both of the criteria of “operator” (as specified in Part 2.1.1) are subject to permitting.</p>
<p>Sec. IV.1 (p. 48)</p>	<p><u>LSD</u>: The Draft Fact Sheet and the Draft Permit require the inspector to be a “qualified person” and then [goes] into detail about how the “qualified person” does not require a certification. Consider including some level of certification/ training requirement for inspectors pertaining to this Draft Permit. Commenter cited many certifications to be added to the “qualified person” definition. The additional certification would clearly demonstrate that an inspector meets the requirements of being “knowledgeable in the principles and practice of erosion and sediment controls,” etc. The inclusion of a certification for “Qualified Personnel” should also meet requirements of Part 3.1.2.3(1) Sites with additional retention capacity.</p>	<p>The requirement for “qualified person(s)” or “qualified personnel” and its associated definition (also cited by the commenter) has been included in every ADEQ construction stormwater general permit and neither of them required inspectors to be certified or licensed. The requirement for a qualified person to be certified and/ or registered is unnecessary and is satisfied by experience, training, certification, or a combination thereof.</p> <p>The subject of requiring an additional level of certification/ training was discussed in stakeholder meetings and rejected by operators. This would add materially to operators’ burden of compliance. Operators are not prohibited from pursuing this additional requirement in their own project. The arguments presented by the commenter do not provide material and additional benefit to water quality. No change was made to the permit.</p> <p>Likewise, no change was made to the permit concerning Part 3.1.2.3(1); as discussed in stakeholder meetings and in the Fact Sheet (Section III.2.3, p. 38). The statute, ARS § 49-255.01(L), requires the use of an Arizona registered professional engineer, geologist or landscape architect.</p>
<p>Sec. IV.2 (p. 49) increased inspection frequency</p>	<p><u>LSD</u>: This section of the Fact Sheet states, both in the title and in the text, that increase of inspection is required for sites that discharge to OAWs or Impaired waters. Section 7.1 of the Draft Permit allows the operator to demonstrate, [if] acceptable to ADEQ, that there is no potential for a discharge to reach an OAW or impaired water, thereby achieving exemption from monitoring for a select parameter. If this scenario is acceptable to exempt monitoring, then also consider including a similar exemption applicable to the increased inspection schedule in Part 4.2.3 of the Draft Permit.</p>	<p>The increased inspection frequencies only apply to sites that are located within 1/4 mile of an impaired or outstanding Arizona water (OAW). Operators can reduce inspection frequencies for those areas of the site that have undergone temporary or final stabilization.</p> <p>Performing inspections at the increased frequency of Part 4.2(3) keeps the operator more prepared when it does rain, a control measure failure occurs and there is a discharge to the sensitive water. The Department does not agree that an exclusion from monitoring directly correlates to relief on inspection frequencies. No change was made to the permit.</p>
<p>Sec. XI.4 p. 70, Smart NOI</p>	<p><u>LSD</u>: ADEQ Smart NOI system forces a person filing for a waiver to click on the box that states: “I confirm that a SWPPP meeting the requirements of this general permit has been developed and will be implemented prior to commencing construction activities at this site.”</p>	<p>An operator who believes that his construction site might be eligible for a waiver may access the SMART NOI site to confirm it. If the project is eligible for a waiver, a pop-up box will appear on the SMART NOI. The user has the option of obtaining either the waiver or obtaining permit coverage by completing the NOI. If the site does not meet the</p>

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	<p>This statement is not accurate, nor is a SWPPP a requirement for a waiver, yet the Smart NOI system forces this declaration. Add a check-box for waiver applicants.</p>	<p>waiver eligibility requirement, no pop-up will appear. At this point, if the user has not prepared a SWPPP, the NOI information can be saved as a temporary file until the SWPPP is prepared. Later, the user can return to the SMART NOI, retrieve the saved NOI and complete it for submission.</p>
<p>Sec. XI.4 p. 70</p>	<p><u>LSD</u>: Is the Annual Report form same as Corrective Action form?</p>	<p>The Corrective Action report form is combined with the Inspection Report Form and is available online at http://www.azdeq.gov/envirom/water/permits/cgp.html</p>
<p>Sec. XI.4 p. 70</p>	<p><u>LSD</u>: please allow electronic format of DMR</p>	<p>Comment noted. ADEQ will create a fillable DMR form that will be available online at http://www.azdeq.gov/envirom/water/permits/cgp.html .</p>
<p>General comment about linear projects</p>	<p><u>LSD</u>: Recommends adding several examples to the Fact Sheet about common plan of development as it relates to linear projects.</p>	<p>Comment noted. The Department believes that the Fact Sheet discussions about linear projects are sufficient and received no similar comments from any of the other linear construction stakeholders. USEPA's NPDES online Stormwater FAQs regarding common plan of development states:</p> <p>“A ‘larger common plan of development or sale’ is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. For example, if a developer buys a 20-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than one acre by separate, independent builders, this activity still would be subject to stormwater permitting requirements if the smaller plots were included on the original site plan. The larger common plan of development or sale also applies to other types of land development such as industrial parks or well fields. A permit is required if one or more acres of land will be disturbed, regardless of the size of any of the individually-owned or developed sites.”</p> <p>See also section II.1.2, p. 8 of the Fact Sheet.</p> <p>No change was made to the Fact Sheet.</p>
<p>Inspection Report Form</p>	<p><u>LSD</u>: Inspection Report Form should not be mandatory.</p>	<p>In accordance with the revisions to the permit, the Fact Sheet now states that ADEQ's Inspection Report Form is optional, provided that an equivalent form is used that documents all of the information required by the permit.</p>